

EUROPEAN PENSIONS ISSUES

JUNE 2005

DIRECTIVE ON THE ACTIVITIES AND SUPERVISION OF INSTITUTIONS FOR OCCUPATIONAL RETIREMENT PROVISION (2003/41/EC) (the “IORP Directive”)

Implementation by the UK

- Continuation of piecemeal approach to amending legislation. Examples:
 - Scheme specific funding:
 - Draft guidance, code of practice, regulations
 - Draft Occupational Pensions (Disclosure of Information) Amendment Regulations
 - Draft Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations:
 - Consequential amendments to the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 (1996/1975) and the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (1996/1715).
 - Those aspects necessary to comply with the IORP Directive will come into force on 22 September 2005; other general updating provisions on 6/4/06
 - Part 7 of the Pensions Act 2004 (cross-border activities within EU) – not yet in force
- On schedule

Implementation by other Member States

- European Commission has suggested that six member States will not have fully implemented the IORP Directive by 23/9/05
 - Germany may fail to implement because of early elections
 - European Parliamentary Pension Forum met to discuss concerns about failure to implement by some Member States on 15 June 2005
- European Federation for Retirement Provision (EFRP) concerned that the Committee of European Insurance and Occupational Pensions Supervisors’ (CEIOPS’) draft protocol on how a single licence for occupational pension funds could function will undermine the implementation of the IORP Directive (by discouraging the creation of a genuine internal market in pension provision)

The IORP Directive and cross-border pension provision

- CEIOPS (established by the European Commission in November 2003) is an independent committee which works for the common implementation of directives and promotes/facilitates pan-European pension schemes

- through advisory and forum functions and through issuing its own standards in the fields of insurance and occupational pensions in areas not covered by EU directives).
- Has previously organised round-table discussions on the implementation of the IORP Directive and received presentations from the EFRP
- Indicated (through statements only) further supervisory interest in occupational pension schemes
- <http://ceiops.org/cgi-bin/ceiops.pl?verz=&sprache=1&cm=nm>
- The European Commission stated that Article 20 of the IORP Directive is not clear with regard to cross-border pension activities.
 - Key difficulty – when is a cross-border activity triggered? By the location of employer or employee or both?
- Possibility that UK companies will relocate their schemes to another Member State with more favourable regulatory framework (e.g. Ireland)
- Mercer's believe that pan-European DB schemes may never be achieved
 - Asset pooling for DB schemes?
 - Lack of clarity re efficiency of cross-border mechanisms
 - Tax protectionism of national tax authorities
 - Possibly achieved more quickly for intra-European mobile employees
- European Fund and Asset Management Association has proposed a European personal pensions account to facilitate cross-border portability of pension rights

Relocating pension schemes outside of the EU

- Advantages to relocating to jurisdictions outside of the EU
 - e.g. Iceland, Switzerland (EFTA members)
 - Harmonised tax regimes but do not have to comply with the IORP Directive

IG/SW

Herbert Smith LLP

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