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I offer pension scheme, asset management and corporate clients services in the following areas:

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Department of Work and Pensions Consultation - Guaranteed Minimum Pension Equalisation

27th January 2012





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The Department of Work and Pensions has launched a consultation on new draft regulations for Guaranteed Minimum Pension (GMP) equalisation along with a proposed possible method for accomplishing equality of treatment.

Progress on this consultation has already proven unusual as it has already excited significant negative press comment and is likely to continue to prove controversial.

Background

From 1978, workers could accrue to the State Earnings Related Pension (SERPS) in addition to the basic state pension. An employer could 'contract out' staff if their provision provided a pension at least as good as SERPS.

SERPS provided for differing payments to men and women - e.g. a first payment age of 60 for women and 65 for men, and differing accrual due to the working life being shorter for women and for men - and these were carried over into the GMP rules for occupational pensions.

In 1990 (Barber) the European Union Court of Justice ruled that it was unlawful to discriminate between the sexes and that this ruling would apply to subsequent accrual from this date forward. This ruling was adopted in subsequent UK legislation which, for consistency with the general equal pay legislative environment, stipulated that this would apply only where there was an opposite sex comparator - effectively one could not be discriminated against unless there was a person who was discriminated for - though the Government now believes this to be inconsistent with European case law (e.g. Allonby, 2004).

In 1997, the GMP rules were removed - the check on adequacy was replaced with a broader "test of quality" against a national benchmark - which left the issue of equality compliance between 1990 and 1997 as an issue that needed resolution.

Consultation

- Removes the need to find an opposite sex comparator
- Provides a proposal for one, non-binding, method of equalising pensions

Current Controversy

- Unhelpful that this acts as a retrospective action for accrual ending in 1997
- Occupational pension schemes would bear the burden of inequality in Government SERPS



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- Proposed methodology compares payments that would be made to each sex in each year rather than overall in total. This is therefore likely to provide an overpayment against entitlement and hence an unanswered tax question
- Does not draw a line under the issue as the proposed methodology involves an review of equality each time the pension payment is recalculated - i.e. annually
- Implementation of this as secondary rather than primary legislation - i.e. as a Statutory Instrument rather than through debate in Parliament

The consultation closes on 12 April 2012.

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