

# Technical Briefing

No. 39



## Finance Act 2004 – End of Transitional Period

As trustees of pension schemes will well know, there were many changes to the way pensions schemes were run arising from the Pensions Act 2004 (which introduced, amongst other things, the new funding regime for defined benefit schemes, the Pensions Regulator and the Pension Protection Fund) and the Finance Act 2004 (the “FA2004”). This briefing looks at the final stages of implementation of the FA2004.

The FA2004 fundamentally changed the tax treatment of pension contribution and income allowances. These new simplification rules replaced the very detailed Old Regime of exempt approval for pension schemes. Broadly, contributions were limited under the new rules by an annual allowance and income by the impact of the Lifetime Allowance.

Although many schemes amended their documentation to implement changes in the period after the FA2004 became law in April 2006, others retained their existing benefit limits in line with the Old Regime by means of transitional regulations. These allowed reference to the old regulations as if they were still in place but come to an end on 6 April 2011, when the Old Regime limits can no longer apply.

### Implications of the Change

The key issue, for schemes that did not carry out a full review of their documentation (“affected schemes”), is that the FA2004 does not contain any reference to the maximum rates at which benefits can be accrued, or a cap on the earnings that benefits can be earned upon (the “earnings cap”).

This means that, as long as contributions to affected schemes do not exceed the annual allowance, and accrual of benefits does not exceed the lifetime allowance, members of such schemes may by default be pensioned by reference to their full uncapped earnings at a faster rate than was intended.

There is a real risk for affected schemes which are still accruing benefits, with members who earn over the notional “earnings cap”, that for those members, their pension entitlement will increase overnight to one based on total uncapped earnings.

### Required Actions

Assuming that affected schemes which are still accruing benefits actually wish to retain reference to an earnings cap broadly similar to the Old Regime, they will have to implement a scheme specific earnings cap. This will require a revision to the scheme documentation. There are also a number of less critical changes that should be considered as part of a review of documentation, and trustees of affected schemes may wish to carry out a general update to their documentation to ensure full compliance with both the FA2004 and the Pensions Act 2004.

If you have any questions, or would like help in arranging a documentation review, please contact your usual **cprm** contact, or Jonathan Black at [jonathan.black@cprmlimited.co.uk](mailto:jonathan.black@cprmlimited.co.uk)

March 2010

