Book Review

Pensions law handbook

Nabarro Pensions Team

Bloomsbury Professional, 9th edn., 2010, 956pp., £85.00, ISBN: 978-1847663825

Pensions (2010) **15**, 307–308. doi:10.1057/pm.2010.14

First, a declaration of interest: this book is written by members of the pensions law team at Nabarro, a team that recruited one of the leading lights at my own law firm a little while back. Therefore, it is rather annoying to report that this one-volume study, despite the inevitable hype by the publishers and the law firm itself, is very good indeed.

First, it is quite an achievement to have described, in quite some detail, the whole corpus of pensions law in under 1000 pages. Its objective is clearly to be comprehensive, and it achieves that end with some success. It cannot have been an easy task; it is (and now is a relatively quiet period) raining pensions law and the incessant downpour makes it hard to present a coherent and current picture of the UK pensions system. The sheer size of the book (it is around three times the size of the original edition) shows, of course, how dysfunctional our pensions code is. There are a mere 16 chapters, covering rather unevenly the basic system of pension provision in the United Kingdom, and a description of the players involved (lawyers, accountants, investments managers and others) and of course of trust law and trustees. There are the usual technical chapters on contracting-out and preservation (which, with some exceptions, are now rather disregarded in practice as they decline in importance) and then chapters on day-to-day issues such as insolvency, employment issues, divorce, discrimination and investment.

Inevitably, it concentrates on the issues arising out of defined benefit schemes, especially as they

die from the application of too much loving from the regulatory system. The chapter on funding spends inevitably (and perhaps hopefully) a great deal of space on surpluses (maybe Nabarro knows something the rest of us do not); there is a valuable chapter on reconstruction and winding-up, a chapter on personal pensions and personal accounts, which will annoy the NEST Corporation, which considers personal accounts to be an occupational scheme (and which shows how fast things are changing), and a basic chapter on mergers and acquisitions.

Bringing up the rear are chapters on pensions disputes (including a valuable summary of alternative ways of resolving disputes) and a huge chapter on taxation, which shows, as only a study like this can, the absurdity of the HMRC simplification exercise of 2004–2006.

The book suffers from a slight lack of focus; it is not quite sure whether it is targeted at the expert (using it as a *vade mecum*) or at the beginner – but whatever its target, it is useful for both. Disappointingly, similar to some others works from the same publisher, this work suffers from a lack of confidence. The authors should be comfortable enough, coming from the stable they do, to express their own views on interpretation of the material they describe. The value of the work is in presenting a story to the practitioner, from where they can move to the original texts if they need to, which are now much more readily available electronically than they used to be. Simply reciting black letter law in one book is now less valuable than a chapter explaining

how the law looks in perspective, and what some of the tricks of the trade might be. This book sometimes, and understandably, steers a rather unsteady course between the two objectives, but anyone needing an overview of a particular subject or issue will find this carefully constructed and meticulous survey an essential first visit. Indeed, even those who are involved daily in pensions law work can find it useful and helpful to step back from time to time from the trees in order to inspect the woods.

Criticisms? There are a few drawbacks, but they are perhaps hard to avoid in trying to draw a balance between reciting the code, and making it understandable. There are perhaps too many legalisms in the text ('reference is made to ...'; sentences starting with a statutory reference and others infelicities that are the products of inexperienced and trained writers; inconsistencies in the person (sometimes using the passive, sometimes using 'we')). The compliance regime is spread around in the relevant chapters rather than dealt with separately. There is excessive respect and too little criticism of the authorities and the judiciary, so that lacunae, faults and errors both of law and policy are glossed over. It might have been more practical for the

publishers to use a bible paper to make the book smaller and lighter to carry around – and give it a hardback to make it longer lasting. And the excessive use of italics in the statutory references is a house-style typesetting tic that is hugely irritating. There is only a passing reference to the issues increasingly being posed by defined contribution arrangements, both trust-based and contract-based.

But any criticism must be muted in the light of the astonishing erudition and industry employed in this compendium. It is as up to date as any book could possibly be, while the legislators might be taking a perverse pleasure in changing the scenery as it is being painted. It is a woeful testament both to the truly awful state of pensions law in the country, and to the way in which a talented team of pensions lawyers can try to rise above the problem. This is a useful, accurate, sensible and comprehensive outline statement of pensions law, which will be used on a day-to-day basis by every practising pensions lawyer in Britain.

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