

## Section 75 named as worst piece of pensions legislation

By David Rowley | 19 December 2011 |

**The section 75 rules around employer debt are the most hated piece of pension legislation according to a straw poll of 10 lawyers.**

They describe it as "impossible to fathom", lacking "practicality", "complex" and having the ability to lead to quite different financial consequences, depending on interpretation.

Irritation has grown after several overhauls failed to simplify section 75 and it suffered further delays in receiving a newly revised draft.

Among those queuing up to berate it were Jennie Kreser, head of pensions at Silverman Sherliker, who described it as a "complete mess and not getting better with the Department for Work and Pensions' (DWP) delays on the new flexible arrangements".

Mark Grant, partner at CMS Cameron McKenna, described the legislation, which came into force in April 1997, as "horribly tortuous and open to interpretation. Different answers can lead to hugely different financial consequences".

Anthony Arter, head of pensions at Eversheds, cited the reams of regulations, the costs to employers and the difficulty in determining who is an active member.

Tamara Calvert, pensions partner at DLA Piper, was equally critical. "The worst thing about it is that having undergone many evolutions, its application to a particular scheme can be nigh on impossible to fathom," she said.

Competition for the worst piece of legislation was high, as several lawyers mused there was so much to choose from.

Ominously, two lawyers cited concerns over auto-enrolment legislation. Kreser decried it as a "mess in the making".

Lesley Browning, partner at Norton Rose, added: "The DWP has made what ought to be a fairly simple concept into an overly complicated structure, with many traps for the unwary.

"For example, why use the requirement of 'ordinarily working in Great Britain', which is not a defined term or term used in employment legislation. Why not make it clear that it applies just to those paying tax and national insurance in the UK, which is really what the DWP means?"