

Pensions Act 2004 – What’s on the 2006 menu?

With another year of changes ahead, we set out below a taster of some of the crucial ingredients of the Pensions Act 2004 (PA 2004) which will come into force in 2006.

6 April 2006

Trusteeship

- Bar some limited exceptions, trustees of all occupational pension schemes must ensure that at least one-third of their number are member-nominated trustees / directors (MNTs / MNDs).
- Existing employer opt-outs will continue until the earlier of the date on which they are due to cease and 31 October 2007.
- But procedural changes for nominating and selecting MNTs / MNDs will mean a degree of sifting through for schemes which do not currently have opt-outs (although regulations are likely to provide some “transitioning” here too).
- Trustees must also have knowledge and understanding of the law relating to pensions and trusts, coupled with the need to be conversant with scheme documents.

6 April 2006

Scheme changes

- Two big changes will affect scheme amendments:
 - employer consultation is required for certain “listed changes” for the future¹; and
 - section 67 which protects past service or “subsisting rights” is completely rehashed².

6 April 2006

Disclosure

- Current disclosure legislation is prescriptive, setting out specific time-frames for providing information to members.
- This will be replaced by a requirement to provide information “within a reasonable period”, backed by a code of practice.
- Annual benefit statements will also need to be given to defined benefit (DB) members from April 2007 onwards³.

1 See our Sackers Extra Alert: “Consultation! Consultation! – an update” dated 17 January 2006 (see the client pages of our website at: <http://www.sackers.com>)

2 See our October 2005 Sackers Extra News “The changing face of section 67”

3 See our Sackers Extra Alert: “Disclosure of Information – consultation published” dated 13 September 2005

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Early leavers

- From 6 April 2006, members who leave their occupational pension scheme with “short service”⁴ will have a choice between a contribution refund and a cash transfer sum.
- Trustees will need to provide members with specific information within “reasonable periods” to help them make their choice.
- The meaning of “reasonable periods” will be covered in a code of practice to be issued by the Pensions Regulator.

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Pension Protection Fund (PPF) levies

- Simmering in the background over the last 12 months, the risk-based levy finally comes to the boil in April.
- The main factors influencing the risk-based levy are the scheme’s underfunding level and the employer’s insolvency risk, but special contributions aimed at reducing deficits and some contingent assets can be taken into account⁵.
- The scheme-based levy will be assessed by reference to a scheme’s PPF liabilities multiplied by a factor, which for 2006/07 is 0.014%.

June 2006?

Work-based information

- PA 2004 contains provisions which, if implemented, will require employers to enable employees to obtain information and advice about pensions in the workplace.
- Regulations will set the precise parameters of this obligation.

And finally...

Internal dispute resolution (IDRP) changes dropped!

- On 17 January 2006, the DWP announced that it will not now implement the changes put forward in PA 2004 regarding IDRP.
- These would have allowed schemes to switch from a two-stage IDRP to a simple one-stage procedure, but all was not as simple as it seemed.
- Sackers (and probably others) raised concerns that, unlike now, individual trustees would be forced to make all IDRP decisions⁶.
- Because the proposals did not meet the Government’s intention of simplification and flexibility the DWP is going to have a rethink.

⁴ Basically, with more than three months’ qualifying service but less than two years

⁵ See our Sackers Extra Alert: “PPF Levies Cometh” dated 16 December 2005

⁶ Currently, someone other than the trustees (commonly the pensions manager) can make the first-stage decision which can help to settle clear-cut disputes and to flush out spurious claims

This edition of Sackers Extra News is part of a series focusing specifically on Pensions Reform to keep you abreast of the key issues throughout this period of change.

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