

PREMIER PENSIONS MANAGEMENT

LEGISLATION UPDATE : 2/06

1. Scheme Rules

Many areas of the new legislation are unclear and will remain so.

(A) ***Deed of Amendment***

- allows members access to new legislation.

Must be completed by 6 April 2006 to allow for example:

- higher member contributions
- higher TFCS.

(B) ***Definitive Trust Deed and Rules***

Should be updated early next year.

2. Statement of Investment Principles (SIP)

A review of SIPS should be an agenda item for all Trustees' meetings in the near future and should thereafter be reviewed annually.

There are also updated Regulations on SIPs and the Trustees' Investment Consultants should be asked to comment.

3. Internal Control Requirements

Pension schemes are required to have adequate internal control mechanisms from 22 September 2005.

There are systems, arrangements and procedures that Trustees must put in place to make sure that with a reasonable assurance their scheme is being run efficiently and effectively in accordance with the Rules of the scheme and the law.

The Pensions Regulator is currently in consultation on this and has issued the "Internal Controls Code of Practice".

4. Trustee Knowledge and Understanding

The following should be prepared for each Scheme and issued to each Trustee by the Principal Employer.

- (a) Confidentiality agreements
- (b) Terms of Reference for Trustees based on the Regulator's draft Code of Practice.

5. Protection of Existing Tax Free cash Sum Entitlement

(i) **Over £375,000**

Should require primary or enhanced protection. This is an individual decision after obtaining suitable qualified financial advice from normally an IFA.

(ii) **TFCS – 25% of their Pension Fund**

- has to be less than £375,000 to be protected;
- no need to register but has to be calculated, based upon current Inland Revenue limits;
- need to check if members need to also be involved about their retained benefits;
- Protected TFCS will be lost if the member transfers to another scheme after 5 April 2006. Exceptions are bulk transfers and where member has primary/enhanced protection.

6. Reporting to the Pensions Regulator

From 6 April 2005 anyone involved in the administration of a pension scheme has a duty to report any infringement to the Pensions Regulator.

There are two questions to be asked:

- (i) Do I have reasonable cause to believe that there has been an infringement of the law. It must be more than mere suspicion. The facts will need to be checked probably with the Trustees prior to reporting.
- (ii) Is the infringement likely to be of MATERIAL SIGNIFICANCE to the Pensions Regulator in carrying out any of its functions?

To agree MATERIAL SIGNIFICANCE you will need to consider:

- cause
- effect
- the reaction to it (e.g. how has it been remedied)
- any wider implications e.g. to highlight lack of Trustee knowledge.

The report must be in writing as soon as practicable. This duty to report overrides all other duties we may have. The Regulator also has a Code of Practice on this.