

PREMIER PENSIONS MANAGEMENT

LEGISLATION UPDATE : 8/06

NEW RIGHTS TO TRANSFER UNDER THE PENSIONS ACT 2004

One of the statutory changes under the Pensions Act 2004 is that early leavers with between 3 and 24 months pensionable service have the right to choose between a refund or transfer to another pension scheme.

The financial impact could be minimised by introducing a waiting period for new joiners. However, if it is greater than 12 months a SHP will be required.

The transfer right is to a “cash transfer sum” which is calculated in a similar way to a cash equivalent transfer value.

The Regulator has issued a code of practice with reasonable time periods for:

- a) Notifying a member of his rights and telling him how to exercise these rights within a reasonable period.
- b) Member’s response.
- c) Trustees to action option.
- d) The default process where a member fails to respond to their notification.

The new rules will not override a scheme which has no or a vesting period less than 24 months. I do not think that we have any of these.

The Trustees must provide early leavers with a written notice of the following:

- His right to a cash transfer value or a refund of contributions
- The amount of both the cash transfer sum and contribution refund. If there is any reduction, due to scheme underfunding, they need to be advised
- How and when to exercise the right
- The information must be sufficient for an informed decision
- The deadline for reply, and if no reply is received by a certain date they will pay a refund of contributions

The Pensions Regulator expects notices within three months of the member leaving service.

If a cash transfer is made the Trustees must provide details of the member’s contributions on the TV. Deadline is one month of a written request for details by the receiving provider.

The Pensions Regulator expects:

- The leaver to be given three months to respond. This must be communicated

- After the default period, Trustees may pay the refund of contributions
- Trustees to wait one month after the deadline to pay default
- Should be in writing
- Trustees do not have to extend the period
- Member to advise the name of the Scheme to transfer to.

CEPs must be paid to the State Scheme within six months so this constraints the timescales.

The refund can be increased with interest, or changed with investment returns. However, these returns must be at no more than a reasonable commercial rate. If it is then it will be treated as an unauthorised member payment.

Action

All schemes need to agree a procedure with timescales.

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