



Pension Law

Pensions law and practice is a complex area, within which many employers, employees actuaries, administrators and trustees need legal assistance, advice and guidance from time to time.

Simcocks is experienced in advising clients on a multitude of pension issues. These range from establishing schemes, advising on particular points of law and practicalities, through to winding up.

There are several current points of particular interest to consider at the moment.

Trustees and administrators of either a personal or occupational pension schemes should already be familiar with the Retirement and Benefit Schemes Act 2000, which substantially came into force on 1st January 2002. It affects all existing schemes which are not "excepted schemes" and there are numerous new compliance points to consider and address for international schemes that need to be authorised or recognised. Further details of the new domestic scheme legislation is promised to follow in the form of regulations later this year.

Recent media attention in the UK, to the winding up of several high profile final salary occupational pension schemes there, has led to widespread awareness of the difficulties and concerns that pension scheme members, employers and trustees can face.

Employers should be aware that switching from a defined benefit scheme to a money purchase scheme may represent a disguised pay cut for their employees. Such course of action may result in liability unless such a switch is necessary for the employer to remain in business, and the employer acts in good faith and is open and honest with their employees regarding their employment contracts. Any employer contemplating 'a switch' should take legal advice to avoid or minimise adverse employment law and pensions law implications.

Jobs are rarely for life any more, and it frequently benefits employees to hop up the career ladder by moving to new employment or employers every couple of years. Some occupational pension schemes offer levels of employer contributions too good to refuse and the potential pensions benefits may count for a significant part of a desirable pay package. What happens if you leave before your accrued rights vest? Two years pensionable service is not the only means of securing occupational pension scheme benefits. On commencing employment, employees should explore whether they have "linked qualifying service" from other occupational schemes or if they are able to transfer in accrued rights from another personal pension scheme. On leaving, it is advisable for consideration to be given to transfers out and provisions under new scheme rules. Conversely, trustees, may need to refresh their memories on the protection the pension law affords early leavers in certain circumstances. There are also additional considerations such as how to exercise trustee discretions, fulfil duties towards employees particularly on equal treatment issues, member admittance and exit and on requests for disclosure or transfers in and out of schemes.