

# PROTECTING YOU - DISCLOSURE REQUIREMENTS



**Please note that this document is not a definitive or comprehensive statement of the law, nor does it give legal advice or purport to do so. If you are in any doubt you should seek independent legal advice by consulting an Attorney-at-Law.**



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## **Introduction:**

The Pensions Act and its associated regulations as well as the constitutive documents of an approved superannuation fund (“fund”) or an approved retirement scheme (“scheme”) impose duties and obligations on trustees to ensure the proper management of these funds and schemes and to protect your rights as a member.

One of the main ways in which you are afforded this protection is by giving you the right to a wide range of information and reports on how your approved fund or scheme is being run and its financial position. This information will help you to be aware and to take an active interest in ensuring that your future retirement benefit is secure.

This booklet is intended to help you to understand what information trustees are required to provide to you or your beneficiaries and your rights to see and receive copies. The booklet gives a brief summary of the content of some of the documents that you have access to. The information contained herein is not comprehensive; neither is it intended to be an interpretation of the law.

## **What information must be disclosed?**

The following table gives details of the information which must be given to you automatically or upon a request being made. These are the minimum requirements; trustees may provide more information if they so choose.

<b>Document</b>	<b>Provided To Whom</b>	<b>Automatic/ On Request</b>	<b>Timing</b>
Constitutive Documents, amendments thereto and rationale for the amendments	Participants, beneficiary (of a deceased participant) or his agent.	On request subject to payment of fees for making copies where applicable.	Within 15 days of the request and the presentation of documents establishing right to see or obtain the information.
Benefit Statement	Active member and Deferred Pensioner	Automatic	Within 4 months of end of plan year.
Copies of Benefit Statements	Terminating, retiring, transferring, or deceased member Participants, beneficiary (of a deceased participant) or his agent.	Automatic On request subject to payment of fees for making copies where applicable.	The retirement, death or termination of the member Within 15 days of the request and the presentation of documents establishing right to see or obtain the information.
Member Handbook and amendments thereto	New members	Automatic	On joining the superannuation fund or the retirement scheme.
Information Folder and amendments thereto	New member	Automatic	On joining the retirement scheme.
Annual Report	Each participant	On request	Within 15 days of the request and the presentation of documents establishing right to see or obtain the information.
Certificates of registration of the fund or scheme, trustees	Participants, beneficiary (of a deceased participant) or his agent.	On request subject to payment of fees for making copies where applicable.	Within 15 days of the request and the presentation of documents establishing right to see or obtain the information.
Policies and procedure manuals	Participants, beneficiary (of a deceased participant) or his agent.	On request subject to payment of fees for making copies where applicable.	Within 15 days of the request and the presentation of documents establishing right to see or obtain the information.
Decision which will cause material change in the fund or scheme	Participant and beneficiary (of a deceased participant)	Automatic	
Statement of transfer values	A member who requested the transfer of funds to another fund or scheme; Trustees of the fund or scheme to which the transfer value is being paid.	Automatic	At the time of payment of the transfer

## **Constitutive Documents**

These are documents that establish and support the operation of a fund or scheme; that is the Trust Deed or Master Trust Deed, Plan Rules, schedules and amendments thereto. Additional information on amendments to the constitutive documents can be found in the brochure, 'What You Should Know About Amendments', located on the FSC website.

## **Benefit Statement**

The benefit statement has three sections. The first section gives general information about the statement, the fund or scheme, the sponsors of the fund or scheme and the member to whom the statement is to be given. The second section must disclose a member's accrued benefit as at the end of the period covered by the statement and a projection of the benefit at normal retirement date. The last section provides general information and must include a paragraph explaining the importance of the statement and the need for members to carefully review it for accuracy and to promptly report any error to the Trustees or the Administrator. Additional information on benefit statements can be found in the brochure entitled 'Member's Benefit Statement' which is located on the FSC's website.

## **Member Handbook**

The Member's Handbook contains statements on the provisions of the fund or scheme and must include an outline of a member's benefits, rights and obligations under the fund or scheme. An explanation of a member's right of access to certain information should also be set out in the handbook. Details of the dispute resolution procedures, the names and contact information of the Trustees, Administrator, Investment Manager, Auditor, Actuary (if any) and the procedure for claiming benefits must also be given.

## **Information Folder**

The following details must be provided in the Information Folder of an approved retirement scheme:

- a description of the scheme's operation;
- fees and charges for taxes, management and other expenses and changes made during the plan year;
- the scope and limitation of investments of the scheme; the intended composition of the portfolio of the scheme according to the class of investments and a description of the application of earnings of the scheme; explanation of risks, and
- a statement setting out the list and respective values of the assets and securities in the scheme over the previous 5 plan years and the rates of return earned on a time-weighted basis.

## **Contents of the Annual Report**

The minimum legislative requirements for the Annual Report are summarized below:

- General Information
  - Current contact information for the trustees, actuary, auditor, investment manager and administrator;
  - Summary of governance activities; and
  - Reminders for participants to notify trustees and administrators of any changes in their personal information.
- Reports from Professional Advisors
  - Summary of the auditor's and actuary's reports, where applicable; and
  - Defined Benefit plans - summary of last actuarial valuation including actuarial value of assets, definition and interpretation of actuarial ratios.
- Investments
  - Performance of the plan relative to targets;
  - Annual yield earned on investments during the plan year; and
  - Interest rate used over the period to accumulate the contributions.
- Operations
  - Details on contributions outstanding and the number of times the contributions were late;
  - Fees and expenses incurred for the plan year or charged against the members' accounts; and
  - Whether there were benefit adjustments and the source of the funds.

## Material Change

In the pension legislation, a material change includes:

- the change of status of a fund or scheme including termination or winding up of the fund or scheme – partially or in its entirety;
- bankruptcy of the sponsor;
- liquidation, amalgamation, reconstruction of a sponsor;
- consolidation, separation or other restructuring of the fund or scheme;
- merger of the fund or scheme with another fund or scheme;
- any other circumstance that the FSC may declare from time to time.

## Transfer Values

This is a value that is calculated when a member of one fund or scheme wishes to move or transfer his pension or pension benefits from one pension plan to another. The amount to be transferred is usually calculated by an actuary.

## Charges

In making a request for copies of any of the documents which members have a right to see or to receive, the member may be asked to pay for such copies. The charge paid by the member should not exceed the reasonable cost of making the documents available.

## Glossary

**Actuary's Report:** An actuarial valuation is essentially an assessment of the financial health of a fund or scheme. The actuary reports on the funding and solvency levels of the pension plan by valuing its assets and liabilities as at a specified date. In the report, if the fund is a defined benefit plan, the actuary would make recommendations as to future employer contribution rates.

**The Auditor's Report:** An audit is an examination of the financial statements or accounts and records of the approved fund or scheme that enables an auditor to report on whether the accounts show a true and fair view of the financial dealings of the fund or scheme during the plan year.

**Deferred Pensioner:** is a member who ceased being an employee of the Sponsor, but is entitled to receive a pension at a future date from the fund or scheme.

**Defined benefit plan:** is an arrangement which is not a defined contribution plan.

**Defined contribution plan:** is an arrangement whereby benefits for a member are determined solely as a function of the amounts that can be provided by:

- (i) contributions made by the employer on behalf of and by the member; and
- (ii) interest earned and other gains and losses allocated to the member's account in the fund

**Financial Statements:** The accounts of an approved superannuation fund or an approved retirement scheme which provide information about the assets and liabilities of the fund or scheme and a summary of the financial transactions during the plan year.

### Sponsor:

- (a) in relation to a superannuation fund, an employer who:
  - (i) establishes the superannuation fund or causes it to be established;
  - (ii) participates in the superannuation fund; or
  - (iii) accepts the obligations of the former sponsor of the superannuation fund;
- (b) in relation to a retirement scheme, a registered life insurer or licensed Investment Manager in good standing with the Commission and who:
  - (i) establishes the retirement scheme or causes it to be established; or
  - (ii) accepts the obligations of the former sponsor of the retirement scheme.

**Total pensionable service:** is the total period credited to a member for the purpose of calculating pension benefit.

**Trust Deed:** is the legal document which sets out the powers and duties of the trustees of the fund or scheme.