

2018 No.

PENSIONS

**The Occupational Pension Schemes (Investment and Disclosure)
(Amendment) Regulations 2018**

Made - - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following regulations in exercise of the powers conferred by sections 113(1), (6) and (7), 181(1), 182(2) and (3) and 183(1) of the Pension Schemes Act 1993(a) and sections 35(3) and (4), 124(1) and 174(2) and (3) of the Pensions Act 1995(b).

In accordance with section 113(9) of the Pension Schemes Act 1993(c), the Secretary of State has consulted with the Financial Conduct Authority and the Treasury and, in accordance with section 185(1) of that Act(d) and section 120(1) of the Pensions Act 1995, has consulted such persons as the Secretary of State considers appropriate.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Investment and Disclosure) (Amendment) Regulations 2018 and, except as provided for below, come into force on 1st October 2019.

(2) On 1st October 2020 the following regulations come into force—

- (a) regulation 3(2) and (4)(b), in so far as this inserts the words “and (f)” in regulations 12 and 29A of the Disclosure Regulations respectively;
- (b) regulation 3(5)(c).

(3) In these Regulations “the Disclosure Regulations” means the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013(e).

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- (a) 1993 c. 48. Section 113(1) was amended by section 52(1) of the Child Support, Pensions and Social Security Act 2000 (c.19); section 113(6) and (7) was inserted by section 44(1) of the Pensions Act 2014 (c. 19) (“the 2014 Act”); section 181(1) is cited for the meaning given to “prescribe” and “regulations”; section 183(1) was amended by Parts 3 and 4 of Schedule 7 to the Pensions Act 1995 (c. 26) (“the 1995 Act”).
 - (b) Section 35 was substituted by section 244 of the Pensions Act 2004 (c. 35) (“the 2004 Act”); section 124(1) is cited for the meaning given to “prescribed” and “regulations”.
 - (c) Section 113(9) was inserted by section 44(1) of the 2014 Act.
 - (d) Section 185(1) was amended by section 122 of, and paragraph 46 of Schedule 3 to, the 1995 Act and by paragraph 80(a) of Schedule 5 to that Act.
 - (e) S.I. 2013/2734.

Amendment of the Occupational Pension Schemes (Investment) Regulations 2005

2.—(1) Regulation 2 (statement of investment principles) of the Occupational Pension Schemes (Investment Regulations) 2005(a) is amended as follows.

(2) In paragraph (2)—

- (a) at the end of sub-paragraph (a) omit “and”;
- (b) at the end of sub-paragraph (b) insert “; and”; and
- (c) after sub-paragraph (b) insert —

“(c) prepare a statement explaining the extent to which the views which, in the reasonable opinion of the trustees, members of the scheme hold (including the views they hold on non-financial matters) will be taken into account in preparing or revising the statement of investment principles.”.

(3) In paragraph (3)—

- (a) in sub-paragraph (b)(vi)—
 - (i) for “the extent (if at all) to which social, environmental or ethical” substitute “financially material”;
 - (ii) after “considerations” insert “, including how those considerations”; and
- (b) for sub-paragraph (c) substitute—
 - “(c) their policies in relation to—
 - (i) the exercise of the rights (including voting rights) attaching to the investments; and
 - (ii) undertaking engagement activities in respect of the investments (including the methods by which and the circumstances under which trustees would monitor and engage with relevant persons and other persons about relevant matters).”.

(4) After paragraph (3) insert—

“(4) For the purposes of this regulation—

“financially material considerations” includes (but is not limited to) environmental, social and governance considerations (including climate change);

“non-financial matters” includes (but is not limited to) ethical matters, social impact matters and present and future quality of life of members matters;

“relevant matters” includes matters concerning an investee company, including its performance, strategy, risks, social and environmental impact and corporate governance; and

“relevant persons” means an investee company, an investment manager and a shareholder of an investee company.”.

Amendment of the Disclosure Regulations

3.—(1) The Disclosure Regulations are amended as follows.

(2) In regulation 12 (annual report)—

- (a) in paragraph (1), before “given in accordance” insert “(subject to paragraph (5))”; and
- (b) after paragraph (4) insert—

“(5) Where the scheme is a relevant scheme within the meaning of the Occupational Pension Schemes (Scheme Administration) Regulations 1996(b), the information listed in paragraph 30(e) and (f) of Schedule 3 must be made publically available free of charge in accordance with regulation 29A(c).”.

(a) S.I. 2005/3378.

(b) S.I. 1996/1715. The definition of “relevant scheme” was inserted by S.I. 2015/879.

(c) Regulation 29A was inserted by S.I. 2018/233.

(3) In the heading to regulation 29A (publishing charges and transaction costs), at the end insert “and other relevant information”.

(4) In regulation 29A—

(a) in paragraph (1), after “paragraph (2)” insert “or (2A)”;

(b) after paragraph (2) insert—

“(2A) The specified information is—

(a) the latest statement of investment principles governing decisions about investments prepared for the scheme under section 35 (investment principles) of the 1995 Act;

(b) the information which must be included in the most recent document prepared under regulation 12 in accordance with paragraph 30(e) and (f) of Schedule 3.”; and

(c) in paragraph (4), after “paragraph (2)” insert “or (2A)”.

(5) In paragraph 30 of Schedule 3 (information to be given on request)—

(a) for sub-paragraph (d) substitute—

“(d) the policies specified in the following paragraph of regulation 2 of the Occupational Pension Schemes (Investment) Regulations 2005 (statement of investment principles) (“the Investment Regulations”)—

(i) paragraph (3)(b)(vi), and

(ii) paragraph (3)(c),”;

(b) for sub-paragraph (e) substitute—

“(e) the latest statement prepared in accordance with paragraph (2)(c) of regulation 2 of the Investment Regulations,”; and

(c) after sub-paragraph (e) insert—

“(f) where the scheme is a relevant scheme within the meaning of the Occupational Pension Schemes (Scheme Administration) Regulations 1996, a statement which must—

(i) set out how, and the extent to which, in the opinion of the trustees, the statement of investment principles required under section 35 of the 1995 Act has been followed during the year,

(ii) describe any review of the statement of investment principles undertaken during the year in accordance with paragraph (1) of regulation 2 of the Investment Regulations, including any review of how the statement of investment principles has been met,

(iii) explain any change made to the statement of investment principles during the year and the reason for the change,

(iv) where no review was undertaken during the year in accordance with paragraph (1) of regulation 2 of the Investment Regulations, give the date of the last review.”.

(6) In paragraph 5B of Schedule 6 (statements of benefits: money purchase benefits and cash balance benefits)(a), after “29A(2)” insert “or (2A)”.

Signed by authority of the Secretary of State for Work and Pensions.

[Address]
[Date]

[Name]
Parliamentary Under Secretary of State
Department for Work and Pensions

(a) Schedule 6 was amended by S.I. 2014/1711 and 2018/233.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose requirements on occupational pension schemes in relation to the statement of investment principles required under section 35 of the Pensions Act 1995 and the disclosure of information in relation to the statement of investment principles.

Regulation 2 amends the Occupational Pension Schemes (Investment) Regulations 2005 which relates to the statement of investment principles. The amendment requires trustees, before they prepare or revise the statement of investment principles, to produce a statement which explains how the view which, in the opinion of trustees, scheme members hold will be taken into account (scheme members' views statement). It also requires trustees to include a policy on how and when they will undertake engagement activities in relation to investments (including monitoring and engaging with relevant persons such as an investee company) in the statement of investment principles.

Regulation 3 amends the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 ("the Disclosure Regulations") to require the trustees of a relevant scheme to include in the annual report under regulation 12 of the Disclosure Regulations a statement on the extent to which the statement of investment principles has been followed during the scheme year and an explanation of any changes made to the statement during that year ("the implementation statement"). It obliges trustees to make available free of charge the statement of investment principles, the scheme members' views statement and the implementation statement on a website, or where appropriate, in hard copy form to the public as a whole to enable people to compare costs and charges of different occupational pension schemes. In addition, the trustees must include details about the availability of these publications in the annual benefit statement of money purchase benefits.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. The Department for Work and Pensions has nonetheless undertaken an assessment of the impact of this instrument, a copy of which is available from the Better Regulation Unit of the Department for Work and Pensions, Caxton House, Tothill Street, London SW1H 9NA and is published with the Explanatory Memorandum alongside this instrument at www.legislation.gov.uk.