

Draft Regulations laid before Parliament under section 54(2)(g) of the Pensions Act 2014 and section 51(5) of the Pension Schemes Act 2021, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No.

PENSIONS

**The Occupational Pension Schemes (Collective Money
Purchase Schemes) Regulations 2021**

Made - - - - ***
Coming into force - - ***

CONTENTS

PART 1

Introductory provision

1. Citation and Commencement
2. Interpretation and notices
3. Connected employers

PART 2

Schemes divided into sections

4. Qualifying schemes
5. Schemes divided into sections

PART 3

Authorisation

6. Authorisation: contents
7. Application for authorisation: fee
8. Fit and proper persons requirement
9. Scheme design requirement: viability certificate
10. Scheme design requirement: viability report
11. Scheme design requirement
12. Financial sustainability requirement
13. Communication requirement
14. Systems and processes requirement
15. Continuity strategy: contents
16. Continuity strategy: administration charges

PART 4
Valuation and benefit adjustment

- 17. Calculation of benefits
- 18. Advice of the scheme actuary
- 19. Actuarial valuation
- 20. Reporting requirements relating to benefit adjustments
- 21. Powers of the pensions regulator

PART 5
Ongoing supervision

- 22. Supervisory return: contents
- 23. Significant events
- 24. Risk notices

PART 6
Triggering events and continuity options

- 25. Triggering events: notification requirements
- 26. Implementation strategy: approval
- 27. Implementation strategy: charges
- 28. Implementation strategy: content
- 29. Continuity option 1: discharge of liabilities and winding up
- 30. Continuity option 2: resolving the triggering event
- 31. Continuity option 3: conversion to closed scheme
- 32. Periodic reporting requirement
- 33. Pause orders
- 34. Administration charges during a triggering event period

PART 7
Collective money purchase benefits – amendments to secondary legislation

- 35. Collective money purchase benefits – amendments to secondary legislation

-
- SCHEDULE 1 — Fit and proper persons requirement
 - SCHEDULE 2 — Scheme design requirement
 - Part 1 — Viability Certificate
 - Part 2 — Viability report
 - Part 3 — Matters that the Regulator must take into account
 - SCHEDULE 3 — Financial Sustainability requirement
 - Part 1 — Information required on application for authorisation
 - Part 2 — Matters which the Regulator must take into account
 - Part 3 — Requirements to be met by the collective money purchase scheme
 - SCHEDULE 4 — Communication requirement
 - SCHEDULE 5 — Systems and processes requirement

SCHEDULE 6 — Continuity Option 1: transfer out and winding up

SCHEDULE 7 — Collective money purchase benefits: amendments to secondary legislation

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 43 and 54(5) and (6) and paragraph 1 of Schedule 18 to the Pensions Act 2014(a) and sections 3(8), 5(2), 8(4)(a) and (b), 11(2)(e) and (3)(a), 12(2)(b), 13(3), 14(3), 15(4)(a), 16(2), 17(4), (5) and (8), 18(4) and (7), 19(2), 20(5), 22(3)(b), 23(3)(c) and (4), 27(2), 28(3) and (4), 29(7)(a) and (10)(a) and (b), 33(4)(b) and (10), 36(1)(c), (2)(b) and (c), (5), (6) and (10), 37(3)(b), 38(3), 39(1)(b), 40(4) and (6), 41(2), 43(2) and (4)(b) and (c), 45(3) and (6), 49(2)(b) and (4) and 51(2) and (3) of, and paragraph 1(6) of Schedule 2 to the Pension Schemes Act 2021(b).

The Secretary of State has consulted such persons as the Secretary of State considers appropriate, in accordance with paragraph 8 of Schedule 18 to the Pensions Act 2014.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with section 54(2)(g) of the Pensions Act 2014(c) and section 51(5) of the Pension Schemes Act 2021(d).

The Secretary of State has exercised her discretion under section 51(6) of the Pension Schemes Act 2021 to make regulations subject to affirmative resolution procedure which would otherwise be subject to negative resolution procedure.

PART 1

Introductory provision

Citation, extent and commencement

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2021.

(2) These Regulations extend to England and Wales and Scotland.

(3) These Regulations come into force on [insert date].

Interpretation and notices

2.—(1) In these Regulations—

“the 1993 Act” means the Pension Schemes Act 1993(e);

“the 1995 Act” means the Pensions Act 1995(f);

“the 2004 Act” means the Pensions Act 2004(g);

(a) 2014 c. 19. Paragraph 1 of Schedule 18 to the Pensions Act 2014 (“the 2014 Act”) was amended by paragraph 25(1) and (2) of Schedule 3 to the Pension Schemes Act 2021 (c. 1).

(b) 2021 c. 1.

(c) The first regulations under paragraph 1 of Schedule 18 to the 2014 Act that make provision in relation to collective money purchase schemes (within the meaning of the Pension Schemes Act 2021) are stated to be made subject to affirmative resolution procedure.

(d) Regulations made under sections 5(2), 11(3)(a), 12(2)(b), 13(3), 14(3), 15(4)(a), 16(2), 17, 18(4), 36(2), 36(6), 45(3)(a), 45(6), 49(2) and 49(4) and the first regulations under sections 19(2), 20(5), 28(3) and 45(3)(b) of the Pension Schemes Act 2021 are stated to be subject to affirmative resolution procedure.

(e) 1993 c. 48.

(f) 1995 c. 26.

(g) 2004 c. 35.

“the Act” means the Pension Schemes Act 2021;

“active member” has the meaning given by section 124(1) of the 1995 Act;

“additional charge” means an administration charge for advice, information or a service provided to a member, including where the member requests a transfer to another pension scheme;

“the Administration Regulations” means the Occupational Pension Schemes (Scheme Administration) Regulations 1996(a);

“body corporate” has the meaning given by section 1173(1) of the Companies Act;

“central estimate” means an estimate that is not deliberately either optimistic or pessimistic, does not include any margin for prudence and does not incorporate adjustments to reflect the desired outcome;

“Code” means a code of practice issued by the Regulator;

“the Companies Act” means the Companies Act 2006(b);

“default arrangement” has the meaning given in regulation 3 of the Occupational Pension Schemes (Charges and Governance) Regulations 2015(c);

“deferred member” has the meaning given in section 124(1) of the 1995 Act;

“discounted level” means a lower level of an administration charge which applies in particular circumstances, including—

- (a) a lower level which applies to members from a particular employer; or
- (b) a lower level which applies to a member according to the value of the member’s rights in the scheme;

“effective date” has the meaning given in section 20(6)(a) of the Act;

“multi-annual reduction” means an arrangement under which the scheme rules permit the trustees to apply a reduction to the rate or amount of benefits provided under the scheme over multiple years following an actuarial valuation;

“pensionable service” has the meaning given in in section 124(1) of the 1995 Act;

“pensioner member” has the meaning given in section 124(1) of the 1995 Act(d);

“relevant person” means a person falling within section 15(3) of the Act;

“the Regulator” means the Pensions Regulator;

“scheme rules” has the meaning in section 318(2) and (3) of the 2004 Act(e);

“scheme year” means—

- (a) a year specified for the purposes of the scheme in any document comprising the scheme; or
- (b) if no year is specified under sub-paragraph (a), a period of 12 months beginning on 1st April or on such other date as the trustees select;

“service provider” means a person providing advisory, administrative, investment or other services in respect of the scheme;

“survivor” in relation to a member has the same meaning given to “survivor” in section 67A(10)(a) of the 1995 Act(f);

(a) S.I. 1996/1715.

(b) 2006 c. 46.

(c) S.I. 2015/879. Regulation 3 was amended by S.I. 2015/889.

(d) The definition of “pensioner member” was amended by section 56 and paragraph 8 of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (2000 c. 19) and S.I. 2006/745; there are other amendments to section 124(1) but none is relevant.

(e) Section 318(2) and (3) was amended by sections 46, 60 and 67 and paragraphs 23 and 38 of Schedule 2 and paragraphs 34 and 41 of Schedule 4 to the Pension Schemes Act 2015 (2015 c. 8) and section 38 and paragraphs 5 and 12 of Schedule 3 to the Pension Schemes Act 2017 (2017 c. 17).

(f) Section 67A was inserted into the 1995 Act by section 262 of the 2004 Act.

“third-party charge” means any administration charge imposed on or in respect of a member by a person other than the trustees;

“the TUPE Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006(a);

“undivided scheme” has the meaning given in section 5(2) of the Act.

(2) Except where paragraph (1) of Schedule 6 provides otherwise, sections 303 and 304 of the 2004 Act (service of notifications and other documents) are treated as applying to notices and notifications issued in accordance with these Regulations.

Connected employers

3.—(1) For the purposes of section 49(2)(b) of the Act (connected employers), an employer (“A”) is connected with another employer (“B”), and an employer which is a group undertaking of A is connected with an employer which is a group undertaking of B—

- (a) where A and B have separate legal identities but are structured so that the economic position of the shareholders of each is, as far as practicable, the same as if they held shares in a single company comprising the combined businesses of A and B;
- (b) where A employs scheme members jointly with B;
- (c) in respect of active members of the scheme, following a transfer of those members to A from B (but see paragraph (3));
- (d) where A holds or controls, or in the previous six months has held or controlled, at least 33% of the voting power in B;
- (e) where A is, or in the previous six months has been, engaged in a joint venture with B.

(2) In paragraph (1)—

- (a) “employer” means a person who employs or engages persons who are members of the scheme;
- (b) “group undertaking” has the meaning given by section 1161(5) of the Companies Act (meaning of “undertaking” and related expressions);
- (c) “joint venture” means an arrangement, contractual or otherwise, by which two or more parties undertake an economic activity that is subject to joint control.

(3) Where the transfer referred to in paragraph (1)(c) is not a relevant transfer as defined in regulation 2 of the TUPE Regulations(b), A and B (and their respective group undertakings) are connected for no more than six months beginning with the date of the transfer.

PART 2

Schemes divided into sections

Qualifying schemes

4.—(1) For the purposes of section 3(8) of the Act (qualifying schemes), the characteristics prescribed are—

- (a) the rate or amount specified in the rules of the scheme by reference to which qualifying benefits accrue each year under the scheme;
- (b) the rate or amount of contributions paid by the employer;
- (c) the rate or amount of contributions paid by the employee;

(a) S.I. 2006/246.

(b) There are further provisions about relevant transfers in regulation 3 of the TUPE Regulations, which was amended by S.I. 2014/16.

(d) the normal pension age as specified in the rules of the scheme.

(2) In this regulation, “normal pension age” has the meaning set out in section 76(1) of the Pension Schemes Act 2015(a) (interpretation of Part 4).

Schemes divided into sections

5.—(1) Where an undivided scheme becomes a collective money purchase scheme that is divided into sections (a “divided scheme”), an authorisation previously granted in respect of the undivided scheme (the “existing authorisation”) applies to a section if—

- (a) that section of the divided scheme is a collective money purchase scheme by reason of section 1(2)(b) of the Act (collective money purchase benefits and schemes);
- (b) the qualifying benefits provided under that section of the divided scheme have the same characteristics set out in regulation 4(1) as those provided under the undivided scheme.

(2) Where an undivided scheme becomes a divided scheme and there are two or more sections providing benefits with the same characteristics set out in regulation 4(1), the trustees of the undivided scheme must determine which section within the divided scheme the existing authorisation will apply to.

(3) Where paragraph (2) applies, the trustees of the undivided scheme must, as soon as reasonably practicable, provide the Regulator with the following information(b)—

- (a) the date from which the existing authorisation will apply to the section within the divided scheme;
- (b) the name of the section within the divided scheme to which the existing authorisation will apply.

PART 3

Authorisation

Authorisation: contents

6.—(1) This regulation applies for the purposes of section 8(4)(a) of the Act (application for authorisation).

(2) The other information to be included in an application is, in relation to each person acting in a capacity mentioned in section 11(2) of the Act (fit and proper persons requirement)—

- (a) in the case of an individual—
 - (i) the person’s full name;
 - (ii) the person’s date of birth;
 - (iii) the title and description of the person’s role in relation to the scheme;
 - (iv) the person’s residential address and address for correspondence, if different, including any change to the residential address in the five years before the date of the application for authorisation;
 - (v) a criminal conviction certificate obtained by means of an application in accordance with section 112(1) of the Police Act 1997 (criminal conviction certificates)(c)or, in relation to the law of a country outside the United Kingdom, any equivalent document;

(a) 2015 c. 8.

(b) This information is required to enable the Regulator to carry out its function under section 26(1) of the Pension Schemes Act 2021 (list of authorised schemes).

(c) 1997 c. 50; section 112(1) was amended by section 97(2) of and Part 8 of Schedule 8 to the Policing and Crime Act 2009 (c. 26), section 80(1) of the Protection of Freedoms Act 2012 (c. 9), and S.I. 2012/3006.

- (b) where that person is acting in a capacity mentioned in section 11(2)(a) to (d) and that person is a body corporate—
 - (i) the full name of each individual who is performing, or who will be performing, the functions of that person in relation to the scheme in the exercise of a management or executive role in relation to that person;
 - (ii) the date of birth of each such individual;
 - (iii) the residential address of each such individual and their address for correspondence, if different, including any change to the residential address in the five years before the date of the application for authorisation;
- (c) in the case of any person, responses to a list of questions raised by the Regulator in the application to assess whether the person is a fit and proper person.

(3) The other information to be included in an application, in relation to whether the scheme is financially sustainable, is the information set out in Part 1 of Schedule 3.

(4) The other information to be included in an application, in relation to whether the systems and processes used for communicating with members and others are adequate, is details of the systems and processes used, or intended to be used, for the purposes of communicating with relevant persons, including details of the matters set out in Schedule 4.

(5) The other information to be included in an application, in relation to whether the systems and processes used in running the scheme are sufficient, is details of the systems and processes used, or intended to be used, in the running of the scheme, and whether they have been devised, applied or maintained by the scheme or a service provider, including details of the matters set out in Schedule 5.

(6) The other information to be included in an application is—

- (a) the name of the scheme;
- (b) the name of each employer in relation to the scheme;
- (c) the date proposed by the applicant as the day on which the operation of the scheme is to commence, subject to the Regulator’s decision under section 9(1) of the Act (decision on application));
- (d) the contact details of the applicant;
- (e) a copy of the rules of the scheme;
- (f) a copy of the scheme’s trust deed.

Application for authorisation: fee

7.—(1) An application for authorisation of a collective money purchase scheme must be accompanied by—

- (a) a fee of £[insert standard fee]; or
- (b) if paragraph (2) or (3) applies, such fee as the Regulator may specify (but see paragraphs (5) and (6)).

(2) This paragraph applies if—

- (a) the application for authorisation is made in respect of a section of a qualifying scheme;
- (b) that application does not form part of a multi-section application;
- (c) at the time when the application is made, another section of the qualifying scheme is an authorised collective money purchase scheme.

(3) This paragraph applies if—

- (a) the application for authorisation is made in respect of a section of a qualifying scheme; and
- (b) that application forms part of a multi-section application.

(4) An application for authorisation forms part of a multi-section application, where—

- (a) the application is made in respect of a section (“Section A”) of a qualifying scheme (“Scheme A”); and
 - (b) at the same time as the application is made in respect of Section A, an application is made in respect of another section of Scheme A.
- (5) A fee specified under paragraph (1)(b)—
- (a) must not exceed £[insert standard fee];
 - (b) must be calculated on a cost recovery basis;
 - (c) must be no less than £[insert standard fee] in respect of at least one application that forms part of a multi-section application.
- (6) Paragraph (5)(c) does not apply if, at the time when the multi-section application is made, another section of Scheme A is an authorised collective money purchase scheme.
- (7) The Regulator must pay fees received under this paragraph (1) to the Secretary of State, unless the Secretary of State with the consent of the Treasury directs otherwise.

Fit and proper persons requirement

8.—(1) Schedule 1 sets out the matters that the Regulator must take into account in assessing, for the purposes of section 11 of the Act (fit and proper persons requirement), whether a person is fit and proper to act in a capacity mentioned in section 11(2) of the Act.

(2) For the purposes of section 11(2)(e) of the Act, where a person in a capacity mentioned in paragraphs (a) to (d) of section 11(2) is a body corporate, the Regulator must assess whether an individual performing the functions of that person in relation to the scheme in the exercise of a management or executive role in relation to that person is a fit and proper person to act in relation to the scheme in that capacity.

Scheme design requirement: viability certificate

- 9.**—(1) A viability certificate must contain the information specified in Part 1 of Schedule 2.
- (2) Subject to paragraph (3), the scheme actuary must have regard to the following matters when providing a viability certificate and considering whether the design of the scheme is sound—
- (a) whether the scheme rules meet—
 - (i) the requirements of section 18 of the Act (calculation of benefits); and
 - (ii) the requirements of regulation 17 (calculation of benefits);
 - (b) whether the trustees have accurately communicated to the scheme members in the current member booklet and most recent annual benefit statements (if any), including updated versions of these documents which are to be circulated to the scheme members—
 - (i) the methods by which the scheme determines the rate or amount of benefits provided under the scheme;
 - (ii) estimates of the rate or amount of any future pension benefits payable under the design of the scheme;
 - (iii) that the future pension benefits payable under the scheme are subject to annual adjustment in accordance with the rules of the scheme;
 - (c) in a case where the certificate is being provided in respect of a collective money purchase scheme the trustees of which are applying for authorisation under section 9 of the Act (decision on application), whether the scheme actuary is satisfied that—
 - (i) the central estimate of the projected average annual increase in the rate or amount of benefits accrued under the scheme over a period of 10 years beginning with the date on which the scheme is expected to begin operating, the value of which is assessed—
 - (aa) by reference to the payments to be made by or on behalf of the members into the scheme over that period;

- (bb) by reference to the returns expected to be achieved on a central estimate basis on the available assets of the scheme;
- (cc) based on the premise that such projected increase is to be applied over the remaining life of the scheme,
is no less than the central estimate of the projected average annual increase in the prices for goods and services as measured by the consumer prices index;
- (ii) by the end of the relevant period, the expected value of the accrued rights to benefits under the scheme of each active member, the value of which is to be assessed in accordance with section 20 of the Act (actuarial valuations) and regulation 19, will be at least equal in value to the amount of the payments to be made by or in respect of the member into the scheme in that period (not including payments made by or on behalf of the employer other than any payments made as a result of a salary sacrifice arrangement);
- (d) in a case where a collective money purchase scheme is operating and has at least one active member, whether the scheme actuary is satisfied that—
 - (i) by the end of the relevant period, each active member of the scheme will accrue rights to benefits under the scheme, the value of which is to be assessed in accordance with section 20 of the Act and regulation 19, that will be at least equal in value to the amount of the payments to be made by or in respect of the member into the scheme in that period (not including payments made by or on behalf of the employer other than any payments made as a result of a salary sacrifice arrangement);
 - (ii) for the preceding five years or, where the scheme has been operating for less than five years, since the date the scheme first began operating, the average of the expected value of the rights to benefits accruing under the scheme of all active members for the following year, the value of which is—
 - (aa) calculated by reference to the effective date in each of those years and in accordance with section 20 of the Act and regulations 17 and 19; and
 - (bb) expressed as a percentage of the pensionable salary at the relevant effective date of all active members at that date,
is not less than half, but not more than twice, the rate of contributions made by or in respect of all active members into the scheme (including contributions made by or on behalf of the employer).
- (3) A viability certificate must be prepared—
 - (a) in respect of the scheme’s first viability certificate, by reference to information as at a date to be agreed between the trustees and the scheme actuary, but not earlier than ten months before the date when the trustees apply to the Regulator for authorisation;
 - (b) in respect of any subsequent viability certificate, by reference to information as at a date to be agreed between the trustees and the scheme actuary, but not earlier than ten months before the date when the certificate is provided to the trustees.
- (4) A viability certificate must be submitted—
 - (a) in writing;
 - (b) in the format set out in a Code.
- (5) For the purposes of paragraph (2), the “relevant period” is—
 - (i) in paragraph (2)(c)(ii), a period of five years beginning with the date on which the scheme is expected to begin operating;
 - (ii) in paragraph (2)(d)(i), a period of five years beginning with the effective date of the viability certificate that is being provided.
- (6) In this regulation—
 - (a) “consumer prices index” means the consumer prices index calculated and published by the Office for National Statistics;

- (b) “salary sacrifice arrangement” means an arrangement under which an individual gives up the right to receive general earnings or specific employment income in return for the making of relevant pension provision;
- (c) “relevant pension provision” means the payment of contributions (or additional contributions) to a pension scheme in respect of the individual or otherwise (by an employer of the individual or any other person) to secure an increase in the amount of the benefits to which the individual or any person who is a dependant of, or is connected with, the individual is actually or prospectively entitled under a pension scheme.

Scheme design requirement: viability report

- 10.**—(1) A viability report must contain the information specified in Part 2 of Schedule 2.
- (2) A viability report must be submitted—
- (a) in writing;
 - (b) in the format set out in a Code.
- (3) The following must be prepared or obtained in connection with a viability report—
- (a) a copy of the rules of the scheme concerning how the rate or amount of benefits provided under the scheme is to be determined;
 - (b) a document prepared by the scheme actuary to inform the trustee’s consideration as to whether the design of the scheme is sound for the purposes of preparing or reviewing the viability report and which must include an explanation of—
 - (i) the assumptions being considered by the trustees and whether the use of those assumptions is justified;
 - (ii) any testing or modelling being considered by the trustees including the results of such testing or modelling;
 - (c) any other information or documents as requested by the Regulator.
- (4) A viability report must be prepared—
- (a) in the case of the scheme’s first viability report, by reference to information as at a date, chosen by the trustees, which must not be earlier than ten months before the date when the trustees apply to the Regulator for authorisation;
 - (b) in the case of any subsequent viability report, by reference to information as at a date, chosen by the trustees, which must not be earlier than ten months before the date when the trustees provide the report to the Regulator.
- (5) If a revised viability report is submitted in accordance with section 13(6)(b) of the Act (viability report), the viability report must indicate which parts of it have been revised and why.

Scheme design requirement

11. Part 3 of Schedule 2 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 12 of the Act (scheme design requirement), whether it is satisfied that the design of a collective money purchase scheme is sound.

Financial sustainability requirement

12.—(1) Part 2 of Schedule 3 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 14 of the Act (financial sustainability requirement), whether it is satisfied that a collective money purchase scheme is financially sustainable.

(2) Part 3 of Schedule 3 sets out the requirements to be met by a collective money purchase scheme in relation to its financing.

Communication requirement

13. Schedule 4 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 15 of the Act (communication requirement), whether it is satisfied that a collective money purchase scheme has adequate systems and processes for communicating with members and others.

Systems and processes requirement

14. Schedule 5 sets out the matters that the Regulator must take into account in deciding whether it is satisfied that the systems and processes used in running a collective money purchase scheme are sufficient to ensure that the scheme is run effectively.

Continuity strategy: contents

15.—(1) The following information is specified for the purposes of section 17(5)(a) of the Act (continuity strategy requirement)—

- (a) the steps the trustees would take to decide which continuity option to pursue (if applicable) and the timescales for taking those steps;
- (b) details of—
 - (i) the main decisions and actions that would need to be taken to protect members' interests during a triggering event period;
 - (ii) the person responsible for taking them; and
 - (iii) the timescales for taking them;
- (c) details of strategies for communicating with employers and beneficiaries, including—
 - (i) the information to be provided; and
 - (ii) the stages at which communication would take place;
- (d) details of strategies for communicating with the Regulator;
- (e) details of how the trustees would choose a receiving scheme, if applicable;
- (f) details of how the trustees would choose the policy or policies mentioned in paragraph 2(2) of Schedule 6, if applicable;
- (g) details of how any periodic income to be paid in accordance with paragraph 7 of Schedule 6 would be calculated and paid, if continuity option 1 were to be pursued;
- (h) details of how the value of beneficiaries' accrued rights to benefits would be transferred to a receiving scheme, if applicable;
- (i) details of how beneficiaries' personal data would be transferred to a receiving scheme, if applicable;
- (j) details of how the payment of benefits would be secured in accordance with paragraph 2(2) of Schedule 6, if applicable;
- (k) details of how beneficiaries' personal data would be transferred to an insurer, or insurers, mentioned in paragraph 2(2) of Schedule 6, if applicable;
- (l) details of how members' records are to be maintained during a triggering event period;
- (m) details of how the quantification of the value of each beneficiary's accrued rights to benefits under the scheme would be carried out;
- (n) details of how the trustees would comply with any legal requirements and meet any legal costs arising from a triggering event;
- (o) details of how the trustees would comply with any actuarial requirements and meet any actuarial costs arising from a triggering event;
- (p) a plan for making decisions concerning the scheme's investment strategy, when a triggering event occurs, and for dealing with scheme investments during a triggering event period;

- (q) a plan for dealing with any contributions due from employers and members;
- (r) details of how the scheme’s administrative services would continue after a triggering event;
- (s) details of how service providers would be retained and paid during a triggering event period;
- (t) details of how implementation of the continuity strategy would be funded.

(2) In deciding, for the purposes of section 17 of the Act (continuity strategy requirement), whether it is satisfied that a collective money purchase scheme has an adequate continuity strategy, the Regulator must take into account the robustness of any assumptions referred to in the following information which have been used for the purposes of estimating figures included in that information—

- (a) the plan mentioned at paragraph (1)(p);
- (b) the details mentioned at paragraphs (1)(n), (o), (s) and (t).

(3) A continuity strategy must be prepared—

- (a) in writing;
- (b) in the format set out in a Code;
- (c) in accordance with any further requirements set out in a Code.

(4) In this regulation—

“beneficiary” has the meaning given in section 36(8) of the Act (continuity option 1: discharge of liabilities and winding up);

“receiving scheme” means a pension scheme to which the value of a beneficiary’s accrued rights to benefits under the scheme may be transferred in accordance with Schedule 6.

Continuity strategy: administration charges

16.—(1) For the purposes of section 17(4) of the Act (continuity strategy requirement), with the exception of those administration charges mentioned in regulation 34(1) (administration charges during a triggering event period), the section of the continuity strategy setting out the levels of administration charges must set them out as follows.

(2) The section must set out all levels of administration charges in the current scheme year for each charge structure including—

- (i) for any additional charges, and the reason for imposing them;
- (ii) for any third-party charges, and the reason for imposing them;
- (iii) for any other type of administration charge in the scheme, including the reason for imposing it.

(3) The levels must be set out on an annualised basis.

PART 4

Valuation and benefit adjustment

Calculation of benefits

17.—(1) For the purposes of section 18(2) of the Act (calculation of benefits), the scheme rules of a collective money purchase scheme must contain the provisions set out in paragraphs (2) to (4).

(2) In relation to the determination of the value of the available assets of the scheme, the assets to be taken into account are the available assets of the scheme attributed to the scheme in the relevant accounts, excluding any resources invested (or treated as invested by or under section 40

of the 1995 Act^(a) (employer-related investments)) in contravention of section 40(1) of the 1995 Act.

- (3) In relation to the determination of the required amount—
- (a) that the trustees must apply the methods set out in the scheme rules;
 - (b) that the mortality tables used and the demographic assumptions made, having regard to the main characteristics of the members as a group, must be based on a central estimate basis;
 - (c) that the discount rate must be determined using a central estimate of the estimated future returns on assets held by the scheme or expected to be held in the future;
 - (d) that the inflation assumptions used must be based on a central estimate basis.
- (4) In relation to the adjustment of the rate or amount of benefits provided under the scheme—
- (a) that the trustees must apply the methods set out in the scheme rules;
 - (b) that any such adjustment must be based on the actuarial valuation calculated by reference to the most recent effective date;
 - (c) that any such adjustment must be applied to all the members of the scheme without variation;
 - (d) that any such adjustment must be applied on the benefit adjustment date;
 - (e) that where an increase is to be made to the rate or amount of benefits provided under the scheme, before that increase can be applied the trustees must determine—
 - (i) the cost of funding that increase (as measured relative to the projected change in inflation) each year for the remaining lives of—
 - (aa) the then beneficiaries of the scheme;
 - (bb) the anticipated survivors in relation to the then members of the scheme;
 - (ii) whether the available assets of the scheme, as determined in accordance with the actuarial valuation calculated by reference to the most recent effective date, are sufficient to fund the cost of that increase (as measured relative to the projected change in inflation) each year for the remaining lives of—
 - (aa) the then beneficiaries of the scheme;
 - (bb) the anticipated survivors in relation to the then members of the scheme.

(5) Notwithstanding paragraphs (3) and (4), it is for the trustees of a collective money purchase scheme to determine, having sought advice from the scheme actuary, which assumptions are to be used for the purposes of determining the required amount on which the adjustment to the rate or amount of benefits provided under the scheme is based.

(6) Where the scheme rules of a collective money purchase scheme permit trustees to apply multi-annual reduction, paragraphs (7) to (10) apply.

(7) Trustees of a collective money purchase scheme may apply a multi-annual reduction to the rate or amount of benefits provided under the scheme provided that—

- (a) the multi-annual reduction is to be applied in full on or before the third benefit adjustment date;
- (b) the reduction applied in any year of the multi-annual reduction must not be greater than the reduction applied in the previous year of the multi-annual reduction.

(8) Subject to paragraph (9), trustees of a collective money purchase scheme must not vary any planned adjustments under a multi-annual reduction after the first benefit adjustment date.

(9) Where there is a multi-annual reduction in effect and a subsequent actuarial valuation results in a smaller reduction in the rate or amount of benefits provided under the scheme, the trustees

^(a) Section 40 of the 1995 Act was amended by S.I. 2004/355 and section 319(1) of the 2004 Act.

may, on the advice of the scheme actuary, revise the planned reduction under the multi-annual reduction for that year.

(10) Where a further reduction in the rate or amount of benefits provided under the scheme is required following a subsequent actuarial valuation, any such reduction is to be applied in addition to any multi-annual reduction in effect.

(11) In this regulation—

“beneficiary” has the meaning given in section 36(8) of the Act (continuity option 1: discharge of liabilities and winding up);

“benefit adjustment date” means the date set out in the scheme rules on which an adjustment to the rate or amount of benefits provided under the scheme following an actuarial valuation must be applied each year;

“relevant accounts” are the audited accounts for the scheme which are prepared in respect of the period ending with the effective date.

Advice of the scheme actuary

18. When advising the trustees of a collective money purchase scheme in accordance with section 19(1) of the Act (advice of the scheme actuary), the scheme actuary must have regard to any guidance which is relevant to determining the matters mentioned in section 18(1) and (2) of the Act (calculation of benefits) published, and from time to time revised, by—

- (a) the Institute and Faculty of Actuaries (or its successor);
- (b) the Regulator (or its successor).

Actuarial valuation

19.—(1) The trustees of a collective money purchase scheme must obtain—

- (a) an actuarial valuation in which the effective date falls within the period of one year beginning with the day on which the scheme first operates; and
- (b) subsequent actuarial valuations in which the effective date is not more than one year after the effective date of the previous actuarial valuation.

(2) At any time prior to the certification of the actuarial valuation by the scheme actuary^(a), the scheme actuary may adjust the value of—

- (a) the available assets of the scheme to account for changes in asset values since the effective date;
- (b) the required amount to account for changes to the scheme membership or other relevant matters since the effective date.

(3) An actuarial valuation prepared in accordance with section 20(1) of the Act (actuarial valuation) must contain the following information—

- (a) the methods and assumptions used for the actuarial valuation and how these have been derived;
- (b) the scheme actuary’s certification that the matters mentioned in section 20(2) of the Act have been determined in accordance with the scheme rules;
- (c) the total number of members enrolled in the scheme as at the effective date, including a breakdown of the number of active members, deferred members, pensioner members and survivors entitled to the payment of benefits under the scheme;
- (d) the average age of the active members, deferred members and pensioner members in the scheme as at the effective date;
- (e) the value of all benefits in payment as at the effective date;

(a) See section 21 of the Act (certificate that actuarial valuation prepared in accordance with scheme rules).

- (f) the effective date of the previous actuarial valuation;
- (g) the value of the available assets of the scheme and the required amount calculated in the previous actuarial valuation;
- (h) confirmation as to whether an adjustment to the rate or amount of the benefits provided under the scheme was required following the previous actuarial valuation;
- (i) where an adjustment to the rate or amount of the benefits provided under the scheme was required following the previous actuarial valuation, the details of the adjustment and the date the adjustment was applied;
- (j) a statement as to whether any multi-annual reduction is in effect as at the effective date;
- (k) where a multi-annual reduction is in operation, the details of the arrangement including—
 - (i) the duration of the multi-annual reduction;
 - (ii) the rate of reduction for each year of the arrangement;
 - (iii) confirmation that previous reductions have been applied in accordance with the details of the arrangement;
 - (iv) the number of years remaining until the multi-annual reduction is applied in full;
- (l) in relation to the methods and assumptions used for the actuarial valuation—
 - (i) where there has been no change compared to the methods and assumptions used for the previous actuarial valuation, a statement setting out why the methods and assumptions continue to be appropriate for the scheme; or
 - (ii) where there has been a change compared to the methods and assumptions used for the previous actuarial valuation, a statement setting out the justification for any changes to the methods or assumptions used.

(4) The requirements set out at paragraph (3)(f) to (3)(l) do not apply to an actuarial valuation prepared in accordance with paragraph (1)(a).

(5) Where the trustees of a collective money purchase scheme obtain an actuarial valuation from the scheme actuary, they must ensure that it is received by them within a period of ten months from the effective date of the valuation.

(6) The trustees of a collective money purchase scheme must secure that any actuarial valuation obtained by them is made available to the Regulator before the end of ten days beginning with the date on which they receive it.

(7) In this regulation, “operates” has the meaning given in section 7(5) of the Act (authorisation of collective money purchase schemes).

Reporting requirements relating to benefit adjustments

20. The following information is specified (where relevant) for the purposes of section 22(3)(b) of the Act (benefits adjustments)—

- (a) where a benefit adjustment has not been applied in accordance with the scheme rules or (as the case may be) the most recent actuarial valuation, the level of any adjustments applied;
- (b) the level of the benefit adjustment that should have been applied in accordance with the most recent actuarial valuation;
- (c) any proposed remedial actions;
- (d) a timetable for implementing any remedial actions;
- (e) a statement as to whether the failure to apply the benefit adjustment in accordance with the scheme rules or (as the case may be) the most recent actuarial valuation will or is likely to result in any negative impact on the scheme’s ongoing ability to deliver the pension benefits under the design of the scheme;
- (f) where there is or is likely to be a negative impact on the scheme’s ongoing ability to deliver the pension benefits, details of any proposed actions to address this.

Powers of the pensions regulator

21.—(1) A direction issued by the Regulator under section 23(2)(a) of the Act (powers of the Pensions Regulator) must set out the relevant matters that the Regulator has considered in determining to issue the direction.

(2) A direction issued by the Regulator under section 23(2)(b) of the Act must set out the following—

- (a) the relevant matters that the Regulator has considered in determining to issue the direction;
- (b) a timetable for implementing any steps or actions specified by the Regulator.

PART 5

Ongoing supervision

Supervisory return: contents

22. For the purposes of section 27(2) of the Act (supervisory return), the Regulator may require the following information to be included in a supervisory return, to the extent that it has not already been provided to the Regulator—

- (a) details of how trustees' competence is being maintained, with particular reference to their compliance with the knowledge and understanding requirements in sections 247 (requirement for knowledge and understanding: individual trustees), 248 (requirement for knowledge and understanding: corporate trustees) and 249 (requirement for knowledge and understanding: supplementary) of the 2004 Act(a);
- (b) any other information that is relevant to the authorisation criteria listed in section 9(3) of the Act (decision on application).

Significant events

23.—(1) The following are significant events for the purposes of section 28 of the Act (significant events)—

- (a) a proposal to change or add to the persons involved in the scheme in the capacities listed in section 11(2) of the Act (fit and proper persons requirement);
- (b) an individual who is involved with the scheme in a capacity listed in section 11(2) of the Act, or whose involvement in the running of the scheme has been suspended while the individual's appointment is being considered—
 - (i) is convicted of an offence;
 - (ii) enters bankruptcy;
 - (iii) has a County Court judgment registered, or in Scotland a decree of the Sheriff Court issued, against him or her;
 - (iv) is sanctioned by a regulator other than the Regulator;
 - (v) is disqualified as a company director;
 - (vi) has been the subject of an adverse judgment or has reached a settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;
 - (vii) has contravened any of the requirements or standards of a regulator, including the Regulator;

(a) Section 248(8) was amended by S.I. 2009/1941.

- (viii) has a change of circumstances, through ill health or otherwise, which materially impairs the individual's ability to operate in a capacity listed in section 11(2) of the Act;
- (ix) has any other change of circumstances which the person required to give notice considers likely to affect the Regulator's assessment under section 11 of the Act of whether the individual is a fit and proper person;
- (c) a significant change to the scheme's investment strategy;
- (d) a proposal to change the design of the scheme including, but not limited to, the following—
 - (i) a proposal that the scheme should become a closed scheme;
 - (ii) where the scheme is a collective money purchase scheme by reason of section 1(2)(a) of the Act (collective money purchase benefits and schemes) and the scheme is not divided into sections, a proposal for the scheme to divide into sections;
- (e) where the scheme is a collective money purchase scheme by reason of section 1(2)(b) of the Act, a proposal to provide qualifying benefits, or other benefits, under a new section of the qualifying scheme;
- (f) a failure to obtain a viability certificate in accordance with section 13(4) or (5) of the Act (viability report);
- (g) an event which, in the opinion of a person mentioned in section 28(2) of the Act (duty to notify the Pensions Regulator of significant events), undermines, or is likely to undermine, the soundness of the design of the scheme;
- (h) an event which has resulted, or in the opinion of a person mentioned in section 28(2) of the Act is likely to result, in the scheme being unable to meet the requirements of Part 2 of Schedule 3;
- (i) the scheme is unable or is unlikely to be able to meet its running costs;
- (j) the scheme is unable or unlikely to be able to meet the costs mentioned in section 14(2)(b) of the Act (financial sustainability requirement);
- (k) a failure of the systems or processes used in running the scheme which has a significant adverse effect on the security or quality of data or on service delivery;
- (l) a failure of the systems and processes for communicating with relevant persons which has a significant adverse effect on communications with relevant persons;
- (m) a proposal to make a significant change to the systems and processes used in running the scheme, including the systems and processes for communicating with relevant persons, or in any person responsible for delivering key services to the scheme;
- (n) an investigation of the scheme, or of a person involved in the scheme, by a regulator or other competent authority inside or outside the United Kingdom.

(2) In this regulation, the significant events listed in paragraph (1)(a), (c) to (e), (g), (h) and (k) to (n) are specified significant events.

(3) For the purposes of section 28(4) of the Act, a person who is required to give notice of a specified significant event and who is aware of the specified further information relating to that event set out in paragraphs (4) to (8) as applicable, must provide this information, in writing, to the Regulator, as soon as reasonably practicable.

(4) Where the specified significant event is a proposal or a change mentioned in paragraph (1)(a), (c) to (e), or (m), the specified further information relating to that event is—

- (a) details of the proposal or change;
- (b) the reasons for the proposal or change;
- (c) the objectives of the proposal or change;
- (d) how the interests of members of the scheme have been taken into account.

(5) Where the specified significant event is that an event mentioned in paragraph (1)(g) has occurred, the specified further information relating to that event is—

- (a) the nature of the event;
 - (b) the reasons why the person mentioned in paragraph (1)(g) is of the opinion that the event undermines, or is likely to undermine, the soundness of the design of the scheme.
- (6) Where the specified significant event is that an event mentioned in paragraph (1)(h) has occurred, the specified further information relating to that event is—
- (a) the nature of the event;
 - (b) if the person mentioned in paragraph (1)(h) is of the opinion that the event is likely to result in the scheme being unable to meet the requirements of Part 2 of Schedule 3, the reasons for this opinion.
- (7) Where the specified significant event is that a failure mentioned in paragraph (1)(k) or (1)(l) has occurred, the specified further information relating to that event is—
- (a) the nature of the failure;
 - (b) the contact details of the person with responsibility for addressing the effect of the failure.
- (8) Where the specified significant event is an investigation of the scheme, or of a person involved in the scheme, by a regulator or other competent authority inside or outside the United Kingdom, the specified further information relating to that event is—
- (a) the nature of the investigation;
 - (b) the contact details of the regulator or other competent authority.

Risk notices

24.—(1) The date referred to in section 29(3)(b) of the Act (risk notices) must fall before the end of the period of 14 days beginning with the date on which the risk notice was issued.

(2) The date referred to in section 29(4) of the Act (notice requiring submission of a revised plan) must fall before the end of the period of 7 days beginning with the date on which the notice was issued.

(3) For the purposes of section 29(7)(a) of the Act (progress reports), the first progress report must be submitted before the end of the period of 14 days beginning with the date on which the Regulator notifies the trustees that it is satisfied that the proposals in the resolution plan are likely to be adequate to resolve the issue of concern.

(4) A risk notice must—

- (a) state that the Regulator considers—
 - (i) that the issue identified in the notice is an issue of concern in relation to the scheme; and
 - (ii) that the scheme will breach the authorisation criteria, or is likely to breach them, if the issue is not resolved;
- (b) contain a statement of the Regulator’s grounds for its consideration and of the evidence on which its consideration is based; and
- (c) explain that section 10 of the 1995 Act(a) (civil penalties) applies to a trustee who fails to comply with the notice.

(a) Section 10 was amended by paragraph 11 of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30), paragraph 38 of Schedule 12 and Part 1 of Schedule 13 to the Pensions Act 2004 (c. 35) (“the 2004 Act”), paragraph 121 of Schedule 13 to the Tribunals, Courts and Enforcement Act 2007 c. 15 and paragraph 52(1)(b) and (2) of Schedule 9 to the Crime and Courts Act 2013 (c. 22).

PART 6

Triggering events and continuity options

Triggering events: notification requirements

25.—(1) For the purposes of section 33(4)(b) of the Act (required notifications to employers and relevant former employers), the trustee must notify each employer and any relevant former employer of the following matters—

- (a) that the trustees—
 - (i) have submitted an implementation strategy to the Regulator and the date on which they did so, or
 - (ii) will submit an implementation strategy to the Regulator before the end of the period specified in regulation 26; and
 - (iii) in either case, will make the implementation strategy available to each employer and any relevant former employer after it has been approved by the Regulator;
- (b) the timetable for future communications with each employer and any relevant former employer.

(2) Notifications under section 33 of the Act must be given before the end of—

- (a) seven days (in the case of notifications to the Regulator);
- (b) fourteen days (in the case of notifications to an employer or any relevant former employer); or
- (c) two days (in the case of notifications to trustees),

beginning with the date specified in paragraph (3).

(3) The specified date is—

- (a) the date on which the triggering event occurred, in the case of—
 - (i) notifications given under section 33(1) of the Act—
 - (aa) by the employer or relevant former employer, in respect of an item 4 triggering event;
 - (bb) by the person who made the decision, in respect of an item 6 triggering event or an item 8 triggering event;
 - (ii) notifications given under section 33(7) or (8) of the Act;
- (b) the date on which the employer or relevant former employer becomes aware that they are unlikely to continue as a going concern, in the case of notifications given under section 33(1) of the Act by the employer or relevant former employer in respect of an item 5 triggering event;
- (c) the date on which the person under the duty to notify became aware that the event had occurred, in the case of—
 - (i) notifications given under section 33(1) of the Act which are not mentioned in subparagraph (a)(i);
 - (ii) notifications given under section 33(3) or (9) of the Act.

Implementation strategy: approval

26. Where the trustees of a collective money purchase scheme are required to submit an implementation strategy to the Regulator for approval, it must be submitted before the end of 28 days beginning with the date on which—

- (a) the decision to withdraw authorisation becomes final, in relation to an item 1 or 2 triggering event; or
- (b) the triggering event occurred, in relation to an item 3 to 9 triggering event.

Implementation strategy: charges

27.—(1) The information to be included in the implementation strategy about the levels of administration charges in relation to members of the scheme—

- (a) must relate to the levels of administration charges for the scheme years specified in paragraph (2); and
- (b) with the exception of those administration charges mentioned in regulation 34(1) (administration charges during a triggering event period), must be set out in accordance with paragraphs (3) and (4).

(2) The specified scheme years are—

- (a) the scheme year in which the triggering event occurred; and
- (b) the scheme year preceding the one in which the triggering event occurred.

(3) The trustees must set out all levels of administration charges for each charge structure including—

- (a) for any additional charges, and the reason for imposing them;
- (b) for any third-party charges, and the reason for imposing them;
- (c) for any other type of administration charge in the scheme, including the reason for imposing it.

(4) The levels in paragraph (3) must be set out on an annualised basis.

(5) For the purposes of section 45(1)(a) of the Act (prohibition on increasing charges etc during triggering event period), during a triggering event period for a collective money purchase scheme, the trustees must not impose administration charges on or in respect of members at levels above those calculated in accordance with the method set out in paragraph (6) (“fixed charge levels”).

(6) For the purposes of calculating the fixed charge levels, the trustees must—

- (a) compare each level from the set of levels for the scheme year in paragraph (2)(a) with the corresponding level from the set of levels for the scheme year in paragraph (2)(b); and
- (b) take the lower of the two levels as the fixed charge level.

(7) Where the triggering event period is more or less than a full year, the fixed charge levels apply on a pro rata basis.

Implementation strategy: content

28.—(1) An implementation strategy must contain—

- (a) details of—
 - (i) the main decisions and actions that will be taken, in relation to the continuity option being pursued, to address the triggering event that has occurred;
 - (ii) the person responsible for taking them; and
 - (iii) the timescales for taking them;
- (b) a communications plan setting out what information will be communicated to employers and beneficiaries and when, including information about—
 - (i) the continuity option being pursued, and
 - (ii) key milestones and when they are to be or were achieved;
- (c) if continuity option 1 is being pursued, a plan setting out how the scheme’s liability to each beneficiary in respect of the value of their accrued rights to benefits under the scheme is to be discharged under the proposal formulated by the trustees in accordance with section 36(1)(b) of the Act (continuity option 1: discharge of liabilities and winding up);
- (d) if continuity option 1 is being pursued, details of how the income to be paid in accordance with section 36(7)(b) of the Act to persons who have or will become pensioner beneficiaries is to be calculated and paid;

- (e) a plan setting out how the integrity of members' records will be maintained during the triggering event period;
 - (f) details of how assets held by the scheme would be converted into a cash equivalent of the value of each beneficiary's accrued rights to benefits under the scheme, if applicable;
 - (g) details of how the trustees will comply with any legal requirements and meet any legal costs arising from the triggering event that has occurred and the continuity option being pursued;
 - (h) details of how the trustees will comply with any actuarial requirements and meet any actuarial costs arising from the triggering event that has occurred and the continuity option being pursued;
 - (i) details of how scheme investments will be managed during the triggering event period;
 - (j) a plan for dealing with any outstanding contributions due from employers and members;
 - (k) details of how the scheme's administrative services will continue during the triggering event period;
 - (l) details of how service providers are to be retained and paid during the triggering event period;
 - (m) details of how carrying out the steps identified in the implementation strategy, including steps relating to the continuity option being pursued, is to be funded;
 - (n) details of when and how the process of determining the rate or amount of benefits provided under the scheme is to be carried out in accordance with section 18 of the Act (calculation of benefits).
- (2) An implementation strategy must be prepared—
- (a) in writing;
 - (b) in the format set out in a Code; and
 - (c) in accordance with any further requirements set out in a Code.

(3) After approval by the Regulator, the implementation strategy must be made available to the employers and any relevant former employer in relation to the scheme before the end of 7 days beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved.

Continuity option 1: discharge of liabilities and winding up

29. Schedule 6 applies when the trustees of a collective money purchase scheme are required, or decide, to pursue continuity option 1.

Continuity option 2: resolving the triggering event

30. For the purposes of section 37(3)(b) of the Act (continuity option 2: resolving the triggering event), the notification to the Regulator setting out how the trustees consider that a triggering event ("the relevant event") has been resolved must be given before the end of 14 days beginning with the later of—

- (a) the date on which the relevant event was, in the trustees' opinion, resolved; and
- (b) if any other event within the second column of the triggering events table has occurred in relation to the scheme since the occurrence of the relevant event, the date on which such other events have, in the trustees' opinion, been resolved.

Continuity option 3: conversion to closed scheme

31.—(1) For the purposes of section 38(3) of the Act (continuity option 3: conversion to closed scheme), the notification to the Regulator under section 38(2) of the Act must be given before the end of 28 days beginning with the date on which the trustees consider that preparations for the conversion of the scheme into a closed scheme are complete.

(2) Preparations for the conversion of the scheme into a closed scheme are not complete unless the steps identified in the implementation strategy, in order to carry out continuity option 3, are complete.

Periodic reporting requirement

32.—(1) For the purposes of section 43(2) of the Act (periodic reporting requirements) the first report must be submitted to the Regulator before the end of 14 days beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved.

(2) For the purposes of section 43(4)(b) of the Act, the reports must record—

- (a) decisions made by the trustees and employers concerning the continuity option being pursued;
- (b) where continuity option 1 is being pursued, decisions made by the trustees and employers in relation to the proposal under section 36(1)(b) of the Act (continuity option 1: discharge of liabilities and winding up) for discharging the scheme's liability to each beneficiary.

(3) The following information is specified for the purposes of section 43(4)(c) of the Act (other information to be included in a periodic report)—

- (a) if the person preparing the report is not an independent trustee appointed pursuant to section 23(1) of the 1995 Act^(a) (power to appoint independent trustees), the name and address of that person;
- (b) the name and address of the scheme actuary;
- (c) a statement as to whether any of the scheme's administrative services are being carried out by a person other than a trustee, and if so the name and address of that person;
- (d) the timescales for completing the steps identified in the implementation strategy;
- (e) details of whether any particular issues are affecting the trustees' ability to pursue or complete the steps identified in the implementation strategy.

Pause orders

33. Where a pause order containing a direction under section 44(5)(e) of the Act (pause orders) has effect in respect of a scheme, section 99 of the 1993 Act^(b) (trustees' duties after exercise of option) has effect in relation to that scheme as if for subsection (2)(c) of section 99 there were substituted—

“(c) in the case of an application which relates to money purchase benefits that are collective money purchase benefits, by the later of—

- (i) the last day of the six months beginning with the date of the application or such longer period beginning with that date as may be prescribed; or
- (ii) where a pause order made under section 44(5) of the Pension Schemes Act 2021 and containing a direction under section 44(5)(e) of that Act has effect in relation to that scheme before the last day of the period referred to in subparagraph (i), the last day of the three months beginning with the date on which the pause order ceases to have effect.”.

Administration charges during a triggering event period

34.—(1) Section 45(1) and (2) of the Act (prohibition on increasing charges etc during triggering event period) do not apply in relation to the following administration charges—

- (a) costs incurred as a result of the buying, selling, lending or borrowing of investments;

^(a) Section 23 was substituted for section 23, as originally enacted, by section 36(1) and (3) of the 2004 Act.

^(b) Section 99(2) was substituted by paragraph 13 of Schedule 4 to the Pension Schemes Act 2015 (c. 8) and was amended by section 25(4) of the 2021 Act.

- (b) where a court order provides for the recovery by the trustees of costs incurred in complying with the order, the amount of those costs;
- (c) charges permitted by regulations made under section 24 or 41 of the Welfare Reform and Pensions Act 1999^(a) (charges by pension arrangements in relation to earmarking orders and charges in respect of pension sharing costs);
- (d) costs solely associated with the provision of death benefits;
- (e) costs solely attributable to holding physical assets.

(2) Section 45 of the Act (prohibition on increasing charges etc during a triggering event period), with the exception of subsection (1), applies to a receiving scheme that has the characteristics mentioned in paragraph 2(1)(a) of Schedule 6, in the same way as it applies to a collective money purchase scheme or a Master Trust scheme that is a receiving scheme.

(3) For the purposes of paragraph (1)(e), the costs solely attributable to holding a physical asset include—

- (a) the costs of managing and maintaining the asset;
- (b) fees for valuing the asset;
- (c) the cost of insuring the asset;
- (d) ground rent, charges, rates, taxes and utilities bills incurred in relation to the asset.

(4) In this regulation—

“physical asset” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Charges and Governance) Regulations 2015^(b);

“receiving scheme” has the meaning given in section 45(8) of the Act.

PART 7

Collective money purchase benefits – amendments to secondary legislation

Collective money purchase benefits – amendments to secondary legislation

35. Schedule 7 contains amendments to secondary legislation in relation to pension schemes providing collective money purchase benefits.

Signatory text

<p>Address</p> <p>Date</p>	<p style="text-align: right;"><i>Name</i></p> <p>[Parliamentary Under Secretary of State]</p> <p>Department for Work and Pensions</p>
----------------------------	---

SCHEDULE 1

Regulation 8

Fit and proper persons requirement

1. For the purposes of section 11(3)(a) of the Act (fit and proper persons requirement), the Regulator must take into account the following matters when assessing whether a person is fit and proper to act in a capacity mentioned in section 11(2) of the Act—

- (a) whether, in England and Wales, the person has—

^(a) 1999 c. 30; section 24 was amended by paragraph 158(2) and (3) of Schedule 27, and Schedule 30, to the Civil Partnership Act 2004 (c. 33).

^(b) S.I. 2015/879. Regulation 2(1) was amended by S.I. 2021/[xxx]; there are other amending instruments but none is relevant.

- (i) made any arrangement with the person’s creditors;
 - (ii) applied to an adjudicator under section 263H of the Insolvency Act 1986(a) (bankruptcy applications to an adjudicator) for a bankruptcy order within the meaning given by section 381(2) of the Insolvency Act(b) (“bankrupt” and associated terminology);
 - (iii) been served with a bankruptcy petition within the meaning given by section 381(3) of the Insolvency Act;
 - (iv) been made bankrupt within the meaning given by section 381(1) of the Insolvency Act(c);
 - (v) been the subject of a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to the Insolvency Act (including an interim bankruptcy restrictions order made under paragraph 5 of that Schedule); or
 - (vi) offered a bankruptcy restrictions undertaking made under paragraph 7 of Schedule 4A to the Insolvency Act;
- (b) whether, in Scotland, the person has—
- (i) made any arrangement with the person’s creditors;
 - (ii) made a debtor application to the Accountant in Bankruptcy for sequestration;
 - (iii) been served with a petition for sequestration;
 - (iv) been the subject of an award of sequestration in accordance with section 22 of the Bankruptcy Act (when sequestration is awarded); or
 - (v) been the subject of a bankruptcy restrictions order within the meaning given by section 155(1) of the Bankruptcy Act (bankrupt restriction order) (including an interim bankruptcy restrictions order within the meaning given by section 160 of that Act (interim bankruptcy restriction orders));
- (c) whether, in Northern Ireland, the person has—
- (i) made any arrangement with the person’s creditors;
 - (ii) petitioned the court for a bankruptcy order;
 - (iii) been served with a bankruptcy petition;
 - (iv) been adjudged bankrupt;
 - (v) been the subject of a bankruptcy restrictions order made under paragraph 1 of Schedule 2A to the Insolvency Order (including an interim bankruptcy restrictions order made under paragraph 5 of that Schedule); or
 - (vi) offered a bankruptcy restrictions undertaking made under paragraph 7 of Schedule 2A to the Insolvency Order;
- (d) whether the person has been a director(d) or partner of, or otherwise concerned in the management of, a business that has gone into insolvency, liquidation or administration while the person was concerned with that business or within one year of their being so concerned;
- (e) whether—
- (i) in Great Britain, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders Act 1974(e); or

(a) Section 263H was inserted by the Enterprise and Regulatory Reform Act 2013 (c. 24), Schedule 18.

(b) Section 381(2) was amended by the Enterprise and Regulatory Reform Act 2013, Schedule 19, paragraph 52.

(c) Section 381(1) was amended by the Enterprise and Regulatory Reform Act 2013, Schedule 19, paragraph 52.

(d) “Director” is defined in section 250 of the Companies Act.

(e) 1974 c. 53.

- (ii) in Northern Ireland, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978(a);
- (f) whether there has been a judgment against the person or the person has reached a settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;
- (g) whether—
 - (i) in Great Britain, the person has been subject to a disqualification order under section 1(1) (disqualification orders: general), or a disqualification undertaking under section 1A(1) (disqualification undertakings: general) of the Company Directors Disqualification Act 1986(b); or
 - (ii) in Northern Ireland, the person has been subject to a disqualification order under Article 3(1) (disqualification orders: general), or a disqualification undertaking under Article 4(1) (disqualification undertakings: general) of the Company Directors Disqualification (Northern Ireland) Order 2002(c);
- (h) whether the person has contravened any of the requirements or standards of—
 - (i) a regulator, including the Regulator; or
 - (ii) the registrar of companies(d);
- (i) any information received from—
 - (i) a regulator; or
 - (ii) the registrar of companies;
- (j) the person’s conduct in relation to, or arising out of or in connection with, any work the person has carried out in one or more of the capacities specified in section 11(2) of the Act—
 - (i) in the five years before the date of the application for authorisation of the scheme; and
 - (ii) at any time since the date of the application for authorisation of the scheme;
- (k) whether—
 - (i) in Great Britain, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the 1995 Act (interpretation of Part 1), under—
 - (aa) section 3 of the 1995 Act(e) (prohibition orders), or
 - (bb) any other legislation; or
 - (ii) in Northern Ireland, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the Pensions (Northern Ireland) Order 1995(f) (interpretation of Part 2), under—
 - (aa) Article 3 of the Pensions (Northern Ireland) Order 1995(g) (prohibition orders), or

(a) S.I. 1978/1908 (N.I. 27).

(b) 1986 c. 46; section 1(1) was amended by section 5(1) of the Insolvency Act 2000 (c. 39) and section 204(1) and (3) of the Enterprise Act 2002 (c. 40). Section 1A was inserted by section 6(1) and (2) of the Insolvency Act 2000 and was amended by section 111 of, and paragraphs 1, 3(1), (2) and (3) of Part 1 of Schedule 7 to, the Small Business, Enterprise and Employment Act 2015 (c. 26).

(c) S.I. 2002/3150 (N.I. 4). Article 3(1) was amended by Article 4(3) of S.I. 2005/1454 (N.I. 9). Article 4(1) was amended by paragraph 9(4)(a) of Schedule 8 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

(d) “Registrar of companies” is defined in section 1060(3) of the Companies Act.

(e) Section 3 was substituted by section 33 of the 2004 Act and amended by S.I. 2010/22.

(f) S.I. 1995/3213 (N.I. 22).

(g) Article 3 was substituted by Article 29 of S.I. 2005/255 (N.I. 1) and was amended by paragraph 3 of Schedule 1, and Schedule 3, to the Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4 (N.I.)).

- (bb) any other legislation;
- (l) whether—
 - (i) in Great Britain, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the 1995 Act, under—
 - (aa) section 29 of the 1995 Act(a) (persons disqualified from being trustees), or
 - (bb) any other legislation; or
 - (ii) in Northern Ireland, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the Pensions (Northern Ireland) Order 1995, under—
 - (aa) Article 29 of the Pensions (Northern Ireland) Order 1995(b) (persons disqualified from being trustees), or
 - (bb) any other legislation.

2. For the purposes of section 11(3)(a) of the Act, the Regulator must take into account—
- (a) the knowledge and skills gained from a person’s significant experience as a trustee, in assessing whether the person is fit and proper to act in that capacity;
 - (b) whether a person has successfully completed such relevant training as may be set out in a Code, in assessing whether the person is fit and proper to act in the capacity of a trustee of the scheme;
 - (c) the collective expertise and experience of persons acting together in the capacity of trustees, in assessing whether they are fit and proper to act in that capacity.

3.—(1) In this Schedule—

“arrangement” means a voluntary arrangement entered into by an individual with their creditors;

“the Bankruptcy Act” means the Bankruptcy (Scotland) Act 2016(c);

“the Insolvency Act” means the Insolvency Act 1986(d);

“the Insolvency Order” means the Insolvency (Northern Ireland) Order 1989(e).

(2) In paragraph (1)(a)—

“adjudicator” has the meaning given by section 385(1) of the Insolvency Act(f);

“creditor” has the meaning given by section 383(1) of the Insolvency Act(g).

(3) In paragraph (1)(b)—

“the Accountant in Bankruptcy” has the meaning given by section 199(1) of the Bankruptcy Act;

“creditor” has the meaning given by section 383(1) of the Insolvency Act(h);

“debtor application” has the meaning given by section 228(1) of the Bankruptcy Act;

“sequestration” has the meaning given by section 1 of the Bankruptcy Act.

(4) In paragraph (1)(c)—

(a) Section 29 was amended by paragraph 45 of Schedule 12, and Schedule 13, to the 2004 Act and S.I. 2004/1941, 2006/1722, 2009/1941, 2012/2404 and 2016/481.

(b) Article 29 was amended by S.I. 2002/3150 (N.I. 4) and S.R. 2008 No. 94 and 2016 No. 108.

(c) 2016 asp 21.

(d) 1986 c. 45.

(e) S.I. 1989/2405 (N.I. 19).

(f) Section 385(1) was amended by the Enterprise and Regulatory Reform Act 2013, Schedule 19, paragraph 55(a).

(g) Section 383(1) was amended by Schedule 16 to the Criminal Justice Act 1988 (c. 33) and paragraph 53 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c. 24).

(h) Section 383(1) was amended by Schedule 16 to the Criminal Justice Act 1988 (c. 33) and paragraph 53 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c. 24).

“bankrupt”, “bankruptcy order”, “bankruptcy petition” have the meanings given in Article 9(1) of the Insolvency Order;

“court” is defined in rule 0.2 of the Insolvency Rules (Northern Ireland) 1991(a);

“creditor” has the meaning given in Article 9(1) of the Insolvency Order.

SCHEDULE 2

Regulation 9

Scheme design requirement

Part 1

Viability Certificate

1. The effective date of the certificate.
2. The name and contact details of the scheme actuary.
3. The name of the scheme in respect of which the viability certificate is being obtained.
4. A statement, signed by the scheme actuary, confirming that—
 - (a) in the scheme actuary’s opinion, the design of the scheme is sound;
 - (b) when providing the viability certificate, the scheme actuary has had regard to the matters specified in regulation 9(2), as applicable.

Part 2

Viability report

General

5. The effective date of the viability report.
6. The name and contact details of the person to be contacted in respect of the viability report.
7. A statement, signed by the trustees confirming that—
 - (a) in their opinion, the design of the scheme is sound;
 - (b) the viability report has been approved by the trustees.
8. A statement, signed by the scheme actuary, confirming that, to the extent the viability report refers to actuarial matters, the scheme actuary is satisfied that those references accurately reflect those matters in respect of the scheme.
9. The name of the scheme in respect of which the viability report has been prepared.

Information about the design of the scheme

10. An explanation of—
 - (a) the design of the scheme;
 - (b) the reasons why the trustees, having taken written advice from the scheme actuary, consider the design of the scheme to be sound and of the evidence on which this consideration is based.
11. The explanation must include—

(a) S.R. 1991 No. 364.

- (a) an explanation of how the scheme satisfies the definition of a collective money purchase scheme under section 1(2) of the Act (collective money purchase benefits and schemes), including—
 - (i) an explanation of how the requirements of section 3 of the Act (qualifying schemes) are met in respect of the scheme; and
 - (ii) where the scheme is a section of a qualifying scheme, an explanation of how the requirements of section 3 of the Act are met in respect of that section;
- (b) an explanation as to why the trustees are satisfied that the scheme rules meet—
 - (i) the requirements of section 18 of the Act (calculation of benefits);
 - (ii) the requirements of regulation 17.

12. In considering whether the design of the scheme is sound, the trustees must have regard to the matters set out in regulation 9(2).

Part 3

Matters that the Regulator must take into account

13. The Regulator must take into account the following matters in deciding whether it is satisfied that the design of a collective money purchase scheme is sound—

- (a) the information or documents mentioned in regulation 10(3) that are provided to the Regulator in accordance with section 13(6) of the Act (viability report);
- (b) whether the Regulator is satisfied that the scheme is a collective money purchase scheme within the meaning of section 1(2) of the Act (collective money purchase benefits and schemes);
- (c) whether the Regulator is satisfied that the scheme rules meet—
 - (i) the requirements of section 18 of the Act (calculation of benefits); and
 - (ii) the requirements of regulation 17;
- (d) whether the Regulator is satisfied that the conclusions reached by the trustees and the scheme actuary, as set out in the viability report and viability certificate respectively, are justified;
- (e) whether the Regulator considers that—
 - (i) the contents of the viability report;
 - (ii) the contents of the viability certificate; and
 - (iii) the information provided to the Regulator concerning any testing or modelling used for the purposes of determining whether the design of the scheme is sound, are sufficiently comprehensive in order to enable the Regulator to decide whether it is satisfied that the design of the scheme is sound.

SCHEDULE 3

Regulation 12

Financial Sustainability requirement

Part 1

Information required on application for authorisation

1. The other information to be included in an application, in relation to whether the scheme is financially sustainable, is—

- (a) in relation to whether the scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(a) of the Act (financial sustainability requirement)—
 - (i) an estimate of the cost of setting up the scheme;
 - (ii) an estimate of the cost of running the scheme, in accordance with any requirements set out in a Code;
 - (iii) details of the scheme's sources of income including estimates of the amount of income from each source, in accordance with any requirements set out in a Code;
 - (iv) the trustees' strategy for meeting any shortfall between the scheme's income and the costs mentioned in section 14(2)(a) of the Act;
 - (v) an explanation of how any estimates provided have been calculated and of the assumptions used in reaching those estimates;
 - (vi) an explanation of the circumstances in which, and the extent to which, the scheme's actual costs and income may vary from the estimates provided and any measures in place to address such variations;
 - (vii) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 14(2)(a) of the Act, the following financial information in respect of each such employer to the extent it is available—
 - (aa) a cash flow statement for the previous 12 months, including any undrawn overdraft facility or revolving credit facility;
 - (bb) forecast and actual profit and loss for the previous 12 months;
 - (cc) budget for the year to date and any variation from that budget;
 - (dd) cash resources;
 - (ee) cash flow forecast for the following four quarters;
 - (ff) operating costs;
 - (gg) inter-company loans and other forms of funding;
 - (hh) the employer's most recent accounts;
 - (ii) any further information concerning the financial position of the employer as set out in a Code;
 - (viii) details of any financing arrangements entered into by the trustees in respect of the costs mentioned in section 14(2)(a) of the Act;
 - (ix) details of the security and enforceability of any loans or other funding commitments provided to the trustees in respect of the scheme, including the reasons why the trustees consider these commitments to be secure and enforceable;
 - (x) where the scheme has any arrangements with service providers that meet the description in paragraph 2(i) of this Schedule, details of the matters set out in that paragraph in respect of each arrangement;
 - (xi) details of any insurance held in respect of the scheme, in respect of the costs mentioned in section 14(2)(a) of the Act, including details of the matters set out in paragraph 2(j) of this Schedule;
- (b) in relation to whether the scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(b) of the Act (costs in the event of a triggering event occurring)—
 - (i) an estimate of the costs mentioned in section 14(2)(b)(i) of the Act;
 - (ii) an estimate of the costs mentioned in section 14(2)(b)(ii) of the Act;
 - (iii) the trustees' strategy for meeting the costs mentioned in section 14(2)(b) of the Act;
 - (iv) the amount and classes of assets held by, or that will be available to, the trustees to meet those costs;
 - (v) an explanation of how any estimates provided have been calculated and of the assumptions used in reaching those estimates;

- (vi) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 14(2)(b) of the Act, the following financial information in respect of each employer to the extent it is available—
 - (aa) a cash flow statement for the previous 12 months, including any undrawn overdraft facility or revolving credit facility;
 - (bb) forecast and actual profit and loss for the previous 12 months;
 - (cc) budget for the year to date and any variation from that budget;
 - (dd) cash resources;
 - (ee) cash flow forecast for the following four quarters;
 - (ff) operating costs;
 - (gg) inter-company loans and other forms of funding;
 - (hh) the employer's most recent accounts;
 - (ii) any further information concerning the financial position of the employer as set out in a Code;
- (vii) details of the security and enforceability of any loans or other funding commitments provided to the trustees in respect of the scheme, including the reasons why the trustees consider these commitments to be secure and enforceable;
- (viii) details of any insurance held in respect of the scheme in respect of the costs mentioned in section 14(2)(b) of the Act, including details of the matters set out in paragraph 3(i) of this Schedule;
- (ix) details of any compensation for which members are eligible in the event of a scheme failure, including details of the matters set out in paragraph 3(k) of this Schedule.

Part 2

Matters which the Regulator must take into account

2. The Regulator must take account of the following matters in deciding whether it is satisfied that a collective money purchase scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(a) of the Act (costs of setting up and running the scheme)—

- (a) the scheme's sources of income, including the estimated amount of income from each source;
- (b) the estimated cost of setting up the scheme;
- (c) the estimated cost of running the scheme;
- (d) the trustees' strategy for meeting any shortfall between the scheme's income and the costs mentioned in section 14(2)(a) of the Act;
- (e) the robustness of any estimates provided to the Regulator in relation to the costs mentioned in section 14(2)(a) of the Act, and of the strategy mentioned in sub-paragraph (d);
- (f) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 14(2)(a) of the Act, the financial position of each of those employers that the Regulator considers relevant;
- (g) the scheme financing arrangements entered into by the trustees in respect of the costs mentioned in section 14(2)(a) of the Act;
- (h) the security and enforceability of loans and other funding commitments provided to the trustees in respect of the scheme;
- (i) where the scheme has an arrangement with a service provider under which the service provider accepts the risk that its costs will exceed any fee paid to it, the provisions made to secure this service and any limitation on the service provider's liability for those costs;

- (j) any insurance held in respect of the costs mentioned in section 14(2)(a) of the Act, including details of—
 - (i) the insurance provider;
 - (ii) the policy holder;
 - (iii) the beneficiary of the policy;
 - (iv) any limitations on the insurer’s liability.

3. The Regulator must take account of the following matters in deciding whether it is satisfied that a collective money purchase scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(b) of the Act (costs in the event of a triggering event occurring)—

- (a) the most recent estimates of the costs mentioned in section 14(2)(b) of the Act provided in respect of the scheme;
- (b) the extent and manner in which the trustees have made provision to meet those costs;
- (c) the amount and classes of assets held by, or available to, the trustees to meet those costs;
- (d) the robustness of any estimates provided to the Regulator in relation to the costs mentioned in section 14(2)(b) of the Act, and of the strategy for meeting those costs;
- (e) where one or more employers in relation to the scheme has agreed to fund the costs mentioned in section 14(2)(b) of the Act, the financial position of each of those employers that the Regulator considers relevant;
- (f) the security and enforceability of loans and other funding commitments provided to the trustees in respect of the scheme;
- (g) whether the scheme rules impose liability on any person for the following costs and, if so the identity of those liable—
 - (i) the costs of winding up the scheme;
 - (ii) the costs of converting the scheme into a closed scheme;
- (h) the alignment between the actions in the scheme’s continuity strategy and the estimated cost of taking those actions;
- (i) any insurance held in respect of the costs mentioned in section 14(2)(b) of the Act, including details of—
 - (i) the insurance provider;
 - (ii) the policy holder;
 - (iii) the beneficiary of the policy;
 - (iv) any limitations on the insurer’s liability;
- (j) the quality of the scheme’s records and data;
- (k) whether the members are eligible for compensation in the event of a scheme failure and, if so, details of—
 - (i) the compensation provider;
 - (ii) the basis on which the compensation is payable;
 - (iii) any limits on the amount of compensation payable;
- (l) the scheme’s most recent continuity strategy.

Part 3

Requirements to be met by the collective money purchase scheme

4. A collective money purchase scheme must meet the following requirements relating to its financing—

- (a) any assets held by or available to the trustees to meet the costs mentioned in section 14(2) of the Act (financial sustainability requirement) must be—
 - (i) of the classes and in the proportions set out in a Code;
 - (ii) valued in accordance with any discounted rates set out in a Code;
 - (iii) available to be used when the relevant costs fall due;
- (b) the scheme’s trustees must have first call on the assets referred to in sub-paragraph (a);
- (c) any funding commitment made to the scheme in respect of the costs mentioned in section 14(2) of the Act must be given in writing and duly executed by the party making the commitment.

SCHEDULE 4

Regulation 13

Communication requirement

Interpretation

1. In this Schedule—

“scheme communication” means a notification, notice, document, statement or other communication relating to the scheme which is provided, or made available, to a relevant person by or on behalf of the scheme;

“relevant functions” include—

- (a) the development, production, provision or review of scheme communications;
- (b) record-keeping in respect of scheme communications;
- (c) quality assurance activities in respect of scheme communications; and
- (d) any other functions, in respect of scheme communications, set out in a Code.

Functionality, quality and maintenance of IT systems

2. Whether the IT systems used for the purposes of communicating with relevant persons—

- (a) have the necessary capacity and capability to enable relevant functions to be carried out by or on behalf of the scheme in accordance with—
 - (i) any legal requirement in relation to scheme communications; and
 - (ii) the scheme’s systems and processes concerning scheme communications;
- (b) are monitored to ensure that they continue to have the necessary capacity and capability;
- (c) are capable of being upgraded or updated to reflect changes in legal requirements relating to scheme communications;
- (d) have a back-up system which allows data concerning scheme communications to be recovered if the main system fails;
- (e) have restricted physical and electronic access, with firewalls and other appropriate protection against viruses and other threats;
- (f) are maintained at regular intervals, either automatically or by a person with the appropriate skills and experience;
- (g) are backed up and updated regularly, including the maintenance of firewalls and other preventative systems.

Resource planning

3. Whether there are systems and processes for ensuring that there are sufficient human resources, with the relevant skills, qualifications and capacity necessary to enable relevant functions to be carried out by or on behalf of the scheme in accordance with—

- (a) any legal requirement in relation to scheme communications; and
- (b) the scheme’s systems and processes concerning scheme communications.

Quality assurance

4. Whether there are systems and processes—
- (a) for assessing and improving the effectiveness of scheme communications and for updating scheme communications to take into account these assessments;
 - (b) for ensuring that the information contained in scheme communications is accurate and is not misleading;
 - (c) for ensuring that any legal requirement in relation to scheme communications is complied with;
 - (d) for ensuring that scheme communications are provided or made available in a timely manner;
 - (e) for scheme communications to be reviewed by such persons as the trustees consider appropriate before being provided or made available and for scheme communications to be kept under review as appropriate.

Member engagement

5. Whether there are systems and processes—
- (a) for gathering feedback from members concerning scheme communications;
 - (b) for evaluating feedback from members concerning scheme communications and sharing this feedback with trustees;
 - (c) for taking into account feedback from members concerning scheme communications in the design of scheme communications;
 - (d) for reporting to the trustees, and members, as to how feedback from members has been taken into account in the design of scheme communications.

SCHEDULE 5

Regulation 14

Systems and processes requirement

Features and functionality of IT systems

1. Whether the IT systems have the capacity and capability—
- (a) to process financial transactions securely, accurately and by automated means, including the core transactions described in regulation 24(2) of the Administration Regulations^(a) (requirements for processing financial transactions);
 - (b) to make and receive electronic payments;
 - (c) to accept contributions from multiple sources;
 - (d) to exchange data with other IT systems, including those used by employers and service providers;
 - (e) to process information securely, accurately and by automated means for the purposes of calculating the rate or amount of benefits to be provided under the scheme, in accordance with the scheme rules;
 - (f) to reconcile data on transactions and produce reports so that those activities can be monitored and transaction errors rectified promptly;
 - (g) to identify and categorise transactions and payments for authorisation and countersigning at an appropriate level of authority;
 - (h) to be updated to reflect changes in the legal requirements affecting transactions, payments and records, including changes in tax thresholds, the annual allowance and the lifetime allowance.

(a) Regulation 24 was inserted by S.I. 2015/879.

Standards required of IT systems

2. Whether the IT systems—

- (a) are capable of being upgraded to reflect changes in required transactions and capacity;
- (b) have restricted physical and electronic access, with firewalls and other appropriate protection against viruses and other threats;
- (c) have a back-up system which allows data to be recovered if the main system fails.

Maintenance of IT systems

3. Whether the IT systems—

- (a) are maintained at regular intervals, either automatically or by a person with the appropriate skills and experience;
- (b) are backed up and updated regularly, including the maintenance of firewalls and other preventative systems;
- (c) are monitored to ensure that their capacity is sufficient for the size of the scheme.

Member records

4. Whether the scheme's systems and processes ensure that—

- (a) there is an accurate record of each member's details, including their pensionable service and the value of their accrued rights to benefits under the scheme, on the relevant IT system;
- (b) any unpaid contributions in respect of active members can be explained to the Regulator and remedied;
- (c) members' records are reviewed regularly for completeness and accuracy and updated promptly with changes of information;
- (d) errors in member's records can be identified and addressed, and any financial impact of such errors on members can be rectified;
- (e) for each financial year, records are maintained—
 - (i) in respect of each person receiving payment of a pension or other benefits under the scheme, including the amount of benefits received during the year;
 - (ii) in respect of each person receiving payment of a periodic income in accordance with paragraph 7 of Schedule 6, including the amount of income received during the year;
- (f) for each financial year, there is an accurate record of the value of accrued rights to benefits under the scheme that has been transferred out of the scheme during the financial year.

Trustees and others

5. Whether there are systems and processes—

- (a) for the fair and transparent recruitment, appointment, resignation and removal of trustees;
- (b) for the fair and transparent recruitment, appointment, resignation and removal of the scheme actuary;
- (c) for determining and recording that persons involved in the scheme in the capacities listed in section 11(2) of the Act (fit and proper persons requirement) are, and remain, fit and proper;
- (d) for monitoring and recording trustees' learning and development, and for ensuring that it is appropriate for the scheme's activities;
- (e) in relation to meetings of trustees, including—
 - (i) the intervals at which meetings of trustees are to take place;
 - (ii) the number of trustees required to authorise decisions on risk management, resource planning and investments;

- (iii) the process for managing the scheme’s business between meetings of the trustees;
- (f) for recording, maintaining and managing all documents relating to the trustees in an accessible medium;
- (g) for managing the scheme’s business if one or more trustees are absent.

Contracts and service providers

6. Whether there are systems and processes—
- (a) for establishing that service providers have the necessary qualifications, experience or approval, as applicable;
 - (b) for establishing that service providers have the capability to provide their services in respect of the scheme—
 - (i) in accordance with any scheme rules that relate to those services;
 - (ii) in accordance with any statutory requirement in relation to those services to which the trustees are subject in respect of the scheme, to the extent that the services are provided on behalf of the trustees;
 - (c) for ensuring that trustees are appropriately engaged in overseeing service providers and in decisions concerning them, including their appointment;
 - (d) for informing the trustees of—
 - (i) any failure by service providers to deliver services;
 - (ii) any actions or omissions by service providers which may prejudice the effective running of the scheme;
 - (e) for recording, maintaining and managing all documents relating to service providers in an accessible medium.

Governance

7. Whether there are systems and processes—
- (a) for the identification of roles and responsibilities in respect of the governance of the scheme;
 - (b) for the appointment of persons with sufficient skills, knowledge and experience to carry out those roles and responsibilities;
 - (c) for setting clear objectives concerning the governance of the scheme and for monitoring whether those objectives are being met within the relevant timescales;
 - (d) for documenting and reporting matters relating to the governance of the scheme;
 - (e) for identifying and addressing any failures in the governance of the scheme.

Risk management

8. Whether there are systems and processes—
- (a) for identifying, managing and monitoring operational, financial, regulatory and compliance risks;
 - (b) for identifying, managing and monitoring risks in respect of the soundness of the design of the scheme;
 - (c) for recording and documenting risks in an appropriate and durable format;
 - (d) for ensuring that risks are managed in a timely manner by persons with the appropriate skills, knowledge and resources;
 - (e) for informing the trustees about risks that have arisen and the steps being taken to manage them.

Security

9. Whether there are systems and processes—

- (a) for preventing unauthorised access to sensitive records and infrastructure, including those containing member information, financial details or investment information;
- (b) for monitoring and recording electronic and physical access to sensitive records and infrastructure;
- (c) for ensuring the secure transfer of physical and electronic data and the secure conduct of transactions.

Resource planning

10. Whether there are systems and processes for ensuring that there are sufficient human resources with the skills, qualifications and capacity necessary to comply with the requirements of Part 1 of the Act (collective money purchase benefits) and, in particular—

- (a) to run and maintain the scheme’s systems and processes;
- (b) to provide for the effective running of the scheme; and
- (c) to send appropriate and timely notifications, information and documents to the Regulator, including information about the scheme’s systems and processes.

Investments

11. Whether there are systems and processes—

- (a) for investing contributions in a timely manner in accordance with the scheme’s investment policy;
- (b) for recording investment decisions;
- (c) for managing the scheme’s interaction with investment managers, and recording key decisions;
- (d) for recording, managing and reviewing the risks associated with investment decisions; and
- (e) for informing trustees about questions, decisions and risks relating to investments.

Valuation and benefit adjustment

12. Whether there are systems and processes—

- (a) for ensuring that the scheme has rules that meet the requirements of section 18 (calculation of benefits) and regulation 17;
- (b) for ensuring that the trustees comply with section 19(1) of the Act (advice of scheme actuary);
- (c) for establishing that the scheme actuary has complied with regulation 18;
- (d) for ensuring that the trustees obtain actuarial valuations in accordance with section 20 of Act (actuarial valuations) and regulation 19;
- (e) for establishing that the scheme actuary has complied with section 21 of the Act (certificate that actuarial valuation prepared in accordance with scheme rules);
- (f) for complying with the requirements of section 22 of the Act (benefits adjustments), where applicable;
- (g) for responding to a direction given under section 23(2) of the Act (powers of the Regulator).

Member engagement

13. Whether there are systems and processes—

- (a) for facilitating members’ engagement with the scheme;
- (b) for bringing members’ views to the attention of the trustees;
- (c) for directing members’ complaints to the correct channels for resolution.

Continuity Option 1: transfer out and winding up

Definitions

1.—(1) In this Schedule—

“arrangement” has the meaning given in section 152 of the Finance Act 2004(a) (meaning of “arrangement”);

“default discharge option” means the way the trustees propose to discharge the scheme’s liability to a beneficiary in respect of the beneficiary’s accrued rights to benefits under the scheme, unless the member specifies otherwise in accordance with paragraph 14;

“discharge time” in relation to a beneficiary under the scheme means the time that the scheme’s liability to the beneficiary in respect of the value of the beneficiary’s accrued rights to benefits under the scheme is discharged;

“final quantification” means the final quantification carried out immediately prior to the discharge time, in accordance with paragraph 5(1)(f);

“income withdrawal” has the meaning given in paragraph 7 of Schedule 28 to the Finance Act 2004(b) (registered pension schemes: authorised pensions-supplementary);

“initial quantification” means the initial quantification carried out in accordance with paragraph 5(1)(c);

“member’s flexi-access drawdown fund” has the meaning given in paragraph 8A of Schedule 28 to the Finance Act 2004(c);

“periodic income” means a payment made by a scheme, which is not the payment of a benefit (including pension) under the scheme, under paragraph 7;

“quantification” means the quantification of the amount that represents the value of each beneficiary’s accrued rights to benefits under the scheme;

“winding-up commencement time” means the time, determined in accordance with these Regulations and the scheme rules, that winding-up is taken to begin for the purposes of continuity option 1;

“winding-up quantification” means the quantification carried out after the Regulator notifies the trustees that the implementation strategy is approved, in accordance with paragraph 5(1)(d);

“winding-up period” means the period beginning with the winding-up commencement time and ending when the winding-up of the scheme is completed.

(2) Notices given under this Schedule must be sent—

- (a) in writing, by post or email,
- (b) to the addressee’s last known address, and
- (c) in accordance with any further requirements set out in a Code.

(3) For the purposes of sub-paragraph (2), a person’s email address is—

- (a) any email address provided for the time being by that person as an address for contacting that person; or
- (b) if no such address has been provided, any email address by means of which the sender reasonably believes that the notice will come to the attention of that person or (where that person is a body corporate) any director or other officer of that body corporate.

(a) 2004 c. 12.

(b) Paragraph 7 was substituted by the Finance Act 2011 (c.11) section 65 and Schedule 16 paragraphs 2 and 5 and amended by the Taxation of Pensions Act 2014 (c. 39) section 1 and Schedule 1 paragraphs 5 and 19.

(c) Paragraph 8A was inserted by the Taxation of Pensions Act 2014 (c. 39) section 1 and Schedule 1 paragraph 3(1).

(4) A notice under this Schedule sent to a person by email is taken to have been received by that person 48 hours after it is sent.

Alternative ways of discharging the scheme's liability

2.—(1) For the purposes of section 36(2)(b) of the Act (continuity option 1: discharge of liabilities and winding up), the ways of discharging a collective money purchase scheme's liability to each beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme (the "transferring scheme") are—

- (a) transferring the value of those rights to an occupational pension scheme (the "receiving scheme") where an employer in relation to the transferring scheme is or is connected with a controlling employer or a principal employer of the receiving scheme;
- (b) transferring the value of those rights to a member's flexi-access drawdown fund in respect of an arrangement for the purposes of entitlement by the beneficiary to income withdrawal which is an authorised member payment for the purposes of Part 4 of the Finance Act 2004 (pension schemes etc.)^(a).

(2) For the purposes of section 36(2)(c) of the Act, the way of discharging a collective money purchase scheme's liability to each beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme is securing the payment of benefits by the purchase of one or more policies from one or more insurers authorised by the Financial Conduct Authority for carrying on long-term insurance business in the United Kingdom.

(3) In this paragraph—

"controlling employer" in relation to a scheme is the employer that has the power to act on behalf of all employers in the scheme in relation to the scheme rules;

"principal employer" in relation to a scheme is the principal employer for the purposes of the scheme in accordance with the scheme rules.

Requirements of scheme rules

3.—(1) A collective money purchase scheme must have rules about how continuity 1 is to be given effect in the event that the trustees are required or decide to pursue continuity option 1.

(2) The rules must include the following—

- (a) the time when the winding-up is to be taken to begin for the purposes of continuity option 1, taking account of the requirements of paragraph 4;
- (b) how the value of the available assets of the scheme is to be determined;
- (c) how the amount that represents the value of each beneficiary's accrued rights to benefits under the scheme is to be quantified for the purposes of the initial quantification, the winding-up quantification and any subsequent quantification carried out prior to the final quantification;
- (d) how the amount that represents the value of each beneficiary's accrued rights to benefits under the scheme is to be quantified for the purposes of the final winding-up quantification;
- (e) how the amount or rate of periodic income payable during the winding-up period is to be calculated and adjusted from time to time.

(3) Rules for determining how the amount that represents the value of each beneficiary's accrued rights to benefits under the scheme is to be quantified must apply to all members of the scheme without variation.

Winding-up commencement time

4.—(1) Where the trustees of a collective money purchase scheme are required to pursue continuity option 1 because a triggering event which is an item 1 or 2 triggering event has occurred in relation to the scheme, the winding-up commencement time must be on the date the

(a) 2004 c. 12.

decision to withdraw authorisation becomes final for the purposes of Part 1 of the Act (collective money purchase benefits).

(2) Where the trustees of a collective money purchase scheme are required to pursue continuity option 1 because a triggering event which is an item 3 triggering event has occurred in relation to the scheme, the winding-up commencement time must be on the date on which the Regulator gives a notification under section 7(3) of the Act (scheme not authorised).

(3) Subject to sub-paragraphs (1) and (2), the winding-up commencement time shall be determined in accordance with subsections (3A) to (3D) of section 124 of the 1995 Act (Interpretation of Part 1)(a).

Quantification of the value of beneficiaries' accrued rights to benefits

5.—(1) The quantification of the value of each beneficiary's accrued rights to benefits under the scheme must be carried out—

- (a) in accordance with these Regulations and with the scheme rules;
- (b) on an actuarial basis;
- (c) as an initial estimate before the end of 28 days beginning with the date of the winding-up commencement time;
- (d) as a subsequent estimate within the period of 6 months beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved;
- (e) as a final estimate not less than 1 month before the proposed discharge time; and
- (f) as a final figure immediately prior to the discharge time in relation to the beneficiary.

(2) The quantification must be the realisable value of the beneficiary's accrued rights to benefits.

(3) The quantification of the value of a beneficiary's accrued rights to benefits under the scheme for the purposes of the final winding-up quantification must be reduced to take account of any periodic income received by that beneficiary in accordance with paragraph 7.

Winding-up period

6.—(1) Subject to sub-paragraph (5), no new members may be admitted to the scheme during the winding-up period.

(2) No further contributions by or on behalf or in respect of members of the scheme may be paid towards the scheme (other than those due to be paid before the beginning of the winding-up period) during the winding-up period.

(3) No benefits may accrue to or in respect of members of the scheme during the winding-up period.

(4) Subject to sub-paragraph (6), no pension or other benefits may be paid by the scheme to or in respect of members of the scheme during the winding-up period.

(5) Where a person is entitled to a pension credit derived from another person's shareable rights under the scheme nothing in this Schedule prevents the trustees of the scheme discharging their liability in respect of the credit under Chapter 1 of Part 4 of the Welfare Reform and Pensions Act 1999 (sharing of rights under pension arrangements)(b) by conferring appropriate rights under the scheme on that person.

(6) Nothing in this Schedule prevents the exercise of any right or power conferred by Chapter 2 of Part 4ZA of the 1993 Act (early leavers: cash transfer sums and contribution refunds)(c) or the discharge of any duty imposed by that Chapter.

(a) Subsections (3A) to (3D) were inserted by section 49(2) of the Child Support, Pensions and Social Security Act 2000 (c. 19) and amended by the 2004 Act, section 319 and Schedule 12 paragraphs 34 and 69.

(b) 1999 c. 30.

(c) Chapter 2 of Part 4ZA was inserted by section 264 of the 2004 Act and its heading was substituted by the Pension Schemes Act 2015 (c. 8) section 67 and Schedule 4 paragraphs 3 and 4.

(7) The requirements mentioned in sub-paragraph (8) cease to apply during the winding-up period and the trustees are discharged from any liability to carry out these requirements in respect of the winding-up period.

(8) The requirements are—

- (a) obtaining actuarial valuations in accordance with section 20 of the Act (actuarial valuations);
- (b) determining the rate or amount of benefits under the scheme, under rules in accordance with section 18 of the Act (calculation of benefits); and
- (c) providing qualifying benefits including the payment of a pension or other benefits under the scheme, as provided for in section 3 of the Act (qualifying schemes).

(9) In sub-paragraph (5)—

“appropriate rights” has the same meaning as in paragraph 5 of Schedule 5 to the Welfare Reform and Pensions Act 1999 (pension credits: mode of discharge)(a);

“shareable rights” has the same meaning as in Chapter 1 of Part 4 of that Act (sharing of rights under pension arrangements).

Periodic income

7.—(1) Where a person is or becomes a pensioner beneficiary of the scheme during the winding-up period the trustees must pay that person a periodic income under and in accordance with this paragraph.

(2) A payment of periodic income by a scheme under this paragraph is not a payment of benefits (including pension) under the scheme.

(3) The periodic income is payable to a pensioner beneficiary during the period beginning with the date of the winding-up commencement time or, if later, the date that the person becomes a pensioner beneficiary and continuing until the date of the discharge time in relation to the pensioner beneficiary.

(4) In the case of a pensioner beneficiary who had been in receipt of a pension under the scheme before the beginning of the winding-up period, payments of periodic income before the initial quantification has been carried out must be made—

- (a) on the same date that a payment of pension would have been due to be made to that pensioner beneficiary had the winding-up of the scheme not commenced; and
- (b) at the same rate or amount as the last payment of pension made to that pensioner beneficiary before the beginning of the winding-up period.

(5) After the initial quantification has been carried out, the amount or rate of the periodic income must—

- (a) be calculated by reference to the amount that represents the value of the pensioner beneficiary’s accrued rights to benefits under the scheme;
- (b) until the winding-up quantification has been carried out, be calculated and paid on the basis of the initial estimate;
- (c) after the winding-up quantification has been carried out, be calculated and paid on the basis of the latest of the winding-up quantification or any subsequent quantification;
- (d) be adjusted from time to time to take account of any subsequent quantification.

Information about periodic income

8.—(1) The information mentioned in sub-paragraph (2) must be given to persons who are pensioner beneficiaries in accordance with this paragraph.

(2) The information is—

(a) 1999 c. 30.

- (a) that during the winding-up period pensions and other benefits cease to be payable under the scheme but that instead the scheme must make payments of periodic income to pensioner beneficiaries;
- (b) when payment of the periodic income to the person will commence;
- (c) an explanation that payment of the periodic income from the scheme will cease after the discharge time;
- (d) details of when and how the periodic income will be paid;
- (e) the amount that the person's periodic income will be following the initial quantification, where this is known;
- (f) an explanation of how the amount of the periodic income is calculated;
- (g) that the amount may be adjusted during the winding up period, and that the amount may reduce following an adjustment;
- (h) how and when notice of any adjustment will be given to the person;
- (i) that the value of the person's accrued rights to benefits under the scheme at the discharge time will be reduced to take account of the periodic income payments made to the person during the winding-up period.

(3) In the case of a person who is a pensioner beneficiary under the scheme at the beginning of the winding-up commencement period, the information must be given as soon as practical and in any event no more than one month after the date of the winding-up commencement time.

(4) In the case of a person who becomes a pensioner beneficiary under the scheme during the winding-up period, the information must be given as soon as practical and in any event no more than one month after the date the person becomes a pensioner beneficiary.

Scheme to continue to be a CMPS during winding-up

9.—(1) A “collective money purchase scheme” for the purposes of Part 1 of the Act (collective money purchase benefits) includes a scheme during the winding-up period where the scheme was a collective money purchase scheme immediately before the winding-up commencement time.

(2) Sub-paragraph (1) applies irrespective of the fact that in accordance with the requirements of this Schedule the scheme has, during the winding-up period—

- (a) ceased to make payments of benefits including payments of pension under the scheme; and
- (b) commenced payments of periodic income under paragraph 7(1).

Trustees' notice to employers

10.—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice to each employer and relevant former employer in relation to the scheme containing the information mentioned in sub-paragraph (2), in accordance with this paragraph.

(2) The information is—

- (a) details of the default discharge options identified in respect of beneficiaries and details of which option will apply to different descriptions of beneficiary including the name of any scheme which has been identified as a default discharge option for members of the scheme;
- (b) that if a beneficiary does not specify an alternative in accordance with the requirements of this Schedule, the scheme's liability to the beneficiary will be discharged in accordance with the relevant default discharge option;
- (c) the beneficiary's rights under Chapter 2 of Part 4ZA of the 1993 Act (early leavers: cash transfer sums and contribution refunds);
- (d) the timetable for future communication with beneficiaries and employers;
- (e) that the notice is for information only.

(3) A notice under this paragraph must be sent before the end of 14 days beginning with—

- (a) the date on which the trustees identify the default discharge options; or
- (b) if later, the date on which the Regulator notifies the trustees that the implementation strategy is approved.

Notification to receiving scheme

11.—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice to the trustees or managers of any occupational pension scheme to which they propose to transfer the value of beneficiaries' accrued rights to benefits under the scheme under a default discharge option, the trustees or managers of which are able and willing to accept the transfer.

(2) The notice sent under this paragraph must state that the scheme has been selected as a default discharge option for the purposes of section 36 of the Act (continuity option 1: transfer out and winding up), for the transfer of the value of beneficiaries' accrued rights to benefits.

(3) The notice must be sent before the end of 14 days beginning with—

- (a) the date on which the trustees identify the scheme as a default discharge option for those purposes; or
- (b) if later, the date on which the Regulator notifies the trustees that the implementation strategy is approved.

Trustees' first notice to beneficiaries in respect of discharge options

12.—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice to each beneficiary of the scheme containing the information mentioned in sub-paragraph (2), in accordance with this paragraph.

(2) The information is—

- (a) details of the default discharge option for the beneficiary;
- (b) where the beneficiary can obtain information and guidance about the default discharge option;
- (c) details of the beneficiary's right to choose whether the value of the beneficiary's accrued rights to benefits under the scheme are discharged by—
 - (i) the default discharge option proposed by the trustees; or
 - (ii) an alternative option specified by the beneficiary;
- (d) details of the alternative options available to the beneficiary in accordance with paragraph 14(2);
- (e) details of the beneficiary's rights under Chapter 2 of Part 4ZA of the 1993 Act (early leavers: cash transfer sums and contribution refunds);
- (f) next steps and the timetable for future communications with the beneficiary.

(3) A notice under this paragraph must be sent before the end of 14 days beginning with—

- (a) the date on which the trustees identify the default discharge option in relation to the beneficiary; or
- (b) if later, the date on which the Regulator notifies the trustees that the implementation strategy is approved.

Trustees' second notice to beneficiaries in respect of discharge options

13.—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a second notice to each beneficiary of the scheme containing the information mentioned in sub-paragraph (2), in accordance with this paragraph.

(2) The information is—

- (a) the proposed discharge time;
- (b) an estimate of the amount that represents the value of the beneficiary's accrued rights to benefits under the scheme based on the latest quantification in relation to the beneficiary;

- (c) details of the default discharge option for the beneficiary including the nature of the arrangement it is proposed will be used to discharge the scheme's liability to the beneficiary and the name of the scheme or insurers the trustees propose to use;
 - (d) that the scheme's liability to the beneficiary in respect of the value of the beneficiary's accrued rights to benefit under the scheme will be discharged by the default discharge option unless the member specifies otherwise;
 - (e) where the beneficiary can obtain information and guidance about the default discharge option;
 - (f) details of the beneficiary's right to choose whether the value of the beneficiary's accrued rights to benefits under the scheme are discharged by—
 - (i) the default discharge option proposed by the trustees; or
 - (ii) an alternative option specified by the beneficiary;
 - (g) the requirement for a beneficiary who wishes to specify an alternative option to send the trustees of the collective money purchase scheme a notice in accordance with paragraph 14;
 - (h) details of the alternative options available to the beneficiary in accordance with paragraph 14(2);
 - (i) details of the beneficiary's rights under Chapter 2 of Part 4ZA of the 1993 Act (early leavers: cash transfer sums and contribution refunds);
 - (j) details of where the beneficiary can obtain information and guidance about the alternative options available to the beneficiary;
 - (k) next steps and the timetable for future communications with beneficiaries.
- (3) A notice under this paragraph must be sent before the end of the period of one month beginning with the date on which the winding-up quantification was completed.

Beneficiaries' response to trustees

14.—(1) A beneficiary who has received notice from the trustees under paragraph 13 may give notice to the trustees requiring them to discharge the scheme's liability to the beneficiary in respect of the value of the beneficiary's accrued rights to benefits under the scheme—

- (a) in the way set out in the default discharge option; or
 - (b) in an alternative way specified by the beneficiary.
- (2) The alternative ways which may be specified by the beneficiary are—
- (a) transferring the value of the beneficiaries' accrued rights to benefits under the scheme to an authorised collective money purchase scheme or an authorised Master Trust scheme;
 - (b) transferring the value of those rights to a personal pension scheme or an occupational pension scheme which is registered under Chapter 2 of Part 4 of the Finance Act 2004 (registration of pension schemes)(a);
 - (c) transferring the value of those rights to a member's flexi-access drawdown fund in respect of an arrangement for the purposes of entitlement by the beneficiary to income withdrawal which is an authorised member payment for the purposes of Part 4 of the Finance Act 2004 (pension schemes etc.);
 - (d) securing the payment of benefits by the purchase of one or more policies from one or more insurers authorised by the Financial Conduct Authority for carrying on long-term insurance business in the United Kingdom.

(3) Where the alternative way specified by the beneficiary is that the value of the beneficiary's accrued rights to benefit should be transferred to an alternative pension scheme, the scheme must be one which is able and willing to accept the transfer.

(4) A notice under this paragraph—

(a) 2004 c. 12.

- (a) must be sent before the end of the period of three months beginning with the day when the member received notice from the trustees under paragraph 13; and
- (b) must contain sufficient information about the alternative way specified by the beneficiary, including bank account details, to enable the trustees to comply with paragraph 15.

Notice of expected discharge time

15. Not less than one month before the date of the expected discharge time, the trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice of the expected discharge time to—

- (a) each beneficiary of the scheme; and
- (b) the employers in relation to the scheme.

Trustees' powers

16.—(1) This paragraph applies where the trustees of a collective money purchase scheme that is pursuing continuity option 1 do not receive a notice from a beneficiary in accordance with paragraph 14.

(2) The trustees may discharge the scheme's liability to a beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme in the way set out in the default discharge option for the beneficiary without the consent of the beneficiary.

(3) Where the default discharge option for a beneficiary is the way referred to in paragraph 2(2) and the scheme discharges its liability to the beneficiary in this way without the beneficiary's consent, the beneficiary is deemed to have entered into an agreement with the insurer.

Trustees' duty to transfer

17.—(1) If the trustees of a collective money purchase scheme that is pursuing continuity option 1 receive notice from a beneficiary in accordance with paragraph 14, they must arrange for the scheme's liability to the beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme to be discharged as specified in the notice.

(2) If the trustees do not receive notice from a beneficiary in accordance with paragraph 14, they must arrange for the scheme's liability to the beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme to be discharged in accordance with the default discharge option.

(3) When the trustees have arranged for the scheme's liability to a beneficiary to be discharged in accordance with sub-paragraph (1) or (2) they must notify the beneficiary of—

- (a) the value of the beneficiary's accrued rights to benefits under the scheme;
- (b) any reductions made in accordance with paragraph 5(3); and
- (c) who has or will become liable for the payment of benefits to the beneficiary when the scheme's liability to the beneficiary in respect of the value of the beneficiary's accrued rights to benefits under the scheme is discharged.

Administration charges

18.—(1) This paragraph applies to the trustees or managers of any occupational pension scheme (the "proposed receiving scheme") to which the trustees of a collective money purchase scheme that is pursuing continuity option 1 (the "transferring scheme") propose to transfer the value of beneficiaries' accrued rights to benefits under the scheme, under a default discharge option.

(2) The trustees of the proposed receiving scheme must provide to the Regulator, in accordance with this paragraph, a document setting out the level of administration charges that applies in relation to members of the proposed receiving scheme.

(3) The document must be provided before the end of the period of 28 days beginning with the date on which the trustees of the proposed receiving scheme receive the notice under paragraph 11.

(4) The document must set out all levels of administration charges for each charge structure, including any discounted levels—

- (a) for each arrangement, including a default arrangement, and any different levels in relation to any one arrangement;
- (b) for any additional charges, including the reason for imposing them;
- (c) for any third-party charges, including the reason for imposing them; and
- (d) for any other type of administration charge in the scheme, including the reason for imposing it.

(5) Where the proposed receiving scheme is a Master Trust scheme the charges must be set out as at the most recent date, not falling within a triggering event period in relation to the transferring scheme, on which the receiving scheme submitted a continuity strategy to the Regulator.

(6) In all other cases the charges must be set out as at the date the triggering event occurred in relation to the scheme as a result of which continuity option 1 is being pursued.

(7) The levels must be set out on an annualised basis.

(8) Where there is a discounted level, the reason for charging the lower level must also be set out.

(9) The document must include a statement explaining—

- (a) how the scheme will be in compliance with section 45(2) of the Act (prohibition on increasing charges etc. during triggering event period);
- (b) whether the scheme is to be liable for the costs mentioned in section 45(4) of the Act; and
- (c) if the scheme is to be liable for those costs, how it is to meet them.

Trustee discharge

19. Where the trustees of a collective money purchase scheme that is pursuing continuity option 1 have, in accordance with section 36 of the Act (continuity option 1: discharge of liabilities and winding up), discharged the scheme's liability in respect of beneficiaries' accrued rights to benefits under the scheme, the trustees are discharged from any obligation to provide benefits in relation to those rights.

Winding up

20. As soon as practicable after the trustees of a collective money purchase scheme that is pursuing continuity option 1 have, in accordance with section 36 of the Act, discharged the scheme's liability in respect of beneficiaries' accrued rights to benefits under the scheme, they must wind up the scheme.

Regulator's power to direct

21.—(1) The Regulator may direct the trustees of a collective money purchase scheme to do anything they are permitted or required to do by this Schedule where continuity option 1 is being pursued.

(2) The trustees of a collective money purchase scheme must comply with a direction issued by the Regulator requiring them to do anything permitted or required by this Schedule.

Civil penalties

22. Section 10 of the 1995 Act (civil penalties) applies to a person who fails to comply with a requirement imposed by this Schedule, including where the requirement is contained in a direction made under it.

Collective money purchase benefits: amendments to secondary legislation

Amendments to the Occupational Pension Schemes (Charges and Governance) Regulations 2015

1. The Occupational Pension Schemes (Charges and Governance) Regulations 2015(a) are amended in accordance with paragraphs 2 to 20.

2.—(1) Regulation 2 (interpretation)(b) is amended as follows.

(2) In paragraph (1)—

(a) in the appropriate places insert—

““the 2021 Act” means the Pension Schemes Act 2021(c);”;

““collective contribution percentage charge” has the meaning given in regulation 5A(3);”;

““collective flat fee charge” has the meaning given in regulation 5A(3);”;

““collective existing rights charge” has the meaning given in regulation 5A(3);”;

““collective money purchase benefit” has the meaning given in section 1 of the 2021 Act;”;

““collective money purchase scheme” has the meaning given in section 1(2) of the 2021 Act;”;

““collective single charge structure” has the meaning given in regulation 5A(2);”;

““qualifying collective money purchase scheme” has the meaning given in regulation 3A;”;

““qualifying section employer” means an employer in relation to whom a section of a pension scheme, which is a collective money purchase scheme by reason of section 1(2)(b) of the 2021 Act, is being used by a qualifying scheme in relation to at least one of its jobholders;”;

““specified section” means a relevant scheme that is a collective money purchase scheme by reason of section 1(2)(b) of the 2021 Act in which at least one qualifying section employer participates;”;

(b) in the definition of “contributing member”—

(i) after “relevant scheme” insert “, that is not a collective money purchase scheme;”;
and

(ii) after “money purchase benefits” insert “(other than collective money purchase benefits);”;

(c) in the definition of “specified scheme” after “relevant scheme” insert “, that is not a collective money purchase scheme by reason of section 1(2)(b) of the 2021 Act;”;

(d) in the definition of “performance fee”(d)—

(i) at the start of paragraph (b) insert “in the case of a relevant scheme that is not a collective money purchase scheme;”;

(ii) at the end of paragraph (b) insert “; or”; and

(iii) after paragraph (b) insert—

(a) S.I. 2015/879, amended by S.I. 2015/889, 2016/304, 2017/774, 2018/240 and 2021/[***].

(b) Regulation 2 was amended by S.I. 2016/304 [and 2021/[***]]. There are other amending instruments but none is relevant.

(c) 2021 (c. 1).

(d) The definition of “performance fee” was inserted by S.I. 2021/[***].

“(c) in the case of a relevant scheme that is a collective money purchase scheme, is not calculated by reference to the value of the members’ rights under the scheme;”.

(3) In paragraph (2)—

- (a) at the end of sub-paragraph (a) insert “other than collective money purchase benefits”;
- (b) omit “or” at the end of sub-paragraph (a);
- (c) in sub-paragraph (b), after “money purchase benefits,” insert “other than collective money purchase benefits,”;
- (d) insert “or” at the end of sub-paragraph (b); and
- (e) after sub-paragraph (b) insert—

“(c) a collective money purchase scheme.”.

(4) After paragraph (2), insert—

“(2A) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 1 of the 2021 Act (see section 1(2)(b)) is to be treated for the purposes of these Regulations as a separate scheme.”.

(5) After paragraph (3), insert—

“(3A) Where, in these Regulations, a collective flat fee charge is to be calculated and these regulations have applied to a member of a qualifying collective money purchase scheme for a period of less than a charges year, the charge associated with that member for the purposes of calculating the collective flat fee charge (see regulation 6A(4)(a)) must be calculated on a pro rata basis.”.

(6) At the end of paragraph (4), insert—

- “;
- (d) a charge under a collective single charge structure;
- (e) a collective existing rights charge.”.

(7) In paragraph (5)—

- (a) for “when a charge under a single charge structure is” substitute “when the following charges are”; and
- (b) after “made” insert—
 - “(a) a charge under a single charge structure;
 - (b) a charge under a collective single charge structure.”.

3. In regulation 3 (default arrangement)(a), in paragraph (9), at the appropriate place insert—

““relevant scheme” does not include a collective money purchase scheme;”.

4. After regulation 3, insert—

“Qualifying collective money purchase schemes

3A.—(1) A relevant scheme is a “qualifying collective money purchase scheme” if—

- (a) (i) it is a collective money purchase scheme by reason of section 1(2)(a) of the 2021 Act (collective money purchase benefits and schemes); and
- (ii) it is being used as a qualifying scheme in relation to one or more relevant jobholders; or
- (b) (i) it is a collective money purchase scheme by reason of section 1(2)(b) of the 2021 Act; and
- (ii) it is being used by a qualifying scheme in relation to one or more relevant jobholders.

(a) Regulation 3 was amended by S.I. 2015/889.

(2) Where a scheme is a qualifying collective money purchase scheme, it continues to be such a scheme regardless of whether it continues to satisfy paragraph (1).

(3) In this Regulation, “relevant jobholder” means a jobholder of one or more of the employers that is using the qualifying collective money purchase scheme.”

5. In the heading to Chapter 1 (default arrangements, non-contributing members and payments to advisers)(a), after “default arrangements” insert “qualifying collective money purchase schemes,”.

6.—(1) Regulation 4 (restrictions on charges)(b) is amended as follows.

(2) In paragraph (1)—

- (a) after “relevant scheme” insert “that is not a collective money purchase scheme,”;
- (b) in sub-paragraph (a), after “this Chapter” insert “, with the exception of regulation 6A”;
- (c) in sub-paragraph (b), after “regulation” insert “5A and”.

(3) After paragraph (1), insert—

“(1ZA) Subject to regulation 9, the trustees of a relevant scheme that is a qualifying collective money purchase scheme must not impose or permit to be imposed on the members of that scheme, in respect of the members’ rights, charges which—

- (a) exceed the limits specified in this Chapter, with the exception of regulation 6; or
- (b) are of a description prohibited by this Chapter, with the exception of regulations 5, 11 and 11A.”.

(4) In paragraph (2)—

- (a) after “regulations” insert “5A, 6A, 7A, 8A,”;
- (b) in sub-paragraph (a), after “relevant scheme” insert “, that is not a collective money purchase scheme,”.

(5) In paragraph (3)—

- (a) at the start of the paragraph insert “For the purposes of paragraph (2),”;
- (b) for “5 to 9” substitute “5, 6, 7, 8 and 9”;
- (c) in sub-paragraph (a), after “another” insert “(where the receiving scheme is not a qualifying collective money purchase scheme)”.

(6) After paragraph (3), insert—

“(3A) If a relevant scheme that receives a transfer of a member’s rights in the circumstances set out in paragraph (3) is a collective money purchase scheme (other than a qualifying collective money purchase scheme), this regulation and regulations 5, 6, 7, 8 and 9 apply in respect of the value of the member’s rights as if they were a member of a relevant scheme within the meaning of regulation 2(2)(a) or (b) to whom this Chapter applies in accordance with paragraph (2).

(3B) Subject to paragraph (3C), the application of this regulation and regulations 5A, 6A, 7A, 8A and 9 to a member of relevant scheme that is a qualifying collective money purchase scheme is not affected by a transfer of the member’s rights to a relevant scheme, where the member has not given consent to the transfer.

(3C) Paragraph (3B) does not apply in respect of the transfer of a member’s rights from a qualifying collective money purchase scheme to a relevant scheme (within the meaning of regulation 2(2)(a) or (b))—

- (a) if this Chapter would otherwise apply to the member by virtue of paragraph (2) upon their rights being transferred; or

(a) The heading to Chapter 1 was inserted by S.I. 2017/774.

(b) Regulation 4 was amended by S.I. 2016/304, 2017/774 and 2018/240.

- (b) if they are a pensioner member of the qualifying collective money purchase scheme.

(3D) If a relevant scheme that receives a transfer of a member's rights in the circumstances set out in paragraph (3B) is a relevant scheme that is not a qualifying collective money purchase scheme (and paragraph (3B) applies in respect of the transfer of that member's rights)—

- (a) this regulation and regulations 5A, 6A, 7A, 8A and 9 apply to that member (and any other members whose rights have been transferred at the same time) as if they were a member or members of a qualifying collective money purchase scheme;
- (b) references in this regulation and in regulations 5A, 6A, 7A, 8A and 9 to the members are to be read as references to those members subject to the transfer.

(3E) Paragraph (3F) applies if a relevant scheme that is a qualifying collective money purchase scheme by virtue of regulation 3A(1)(a) ("Scheme A") is divided into sections.

(3F) The application of this regulation and regulations 5A, 6A, 7A, 8A and 9 to a member of Scheme A is not affected by the division of Scheme A into sections."

(7) In paragraph (4), after "relevant scheme" insert "that is not a collective money purchase scheme".

(8) After paragraph (4), insert—

"(5) In this regulation, "pensioner member" has the meaning given in section 124(1) of the 1995 Act(a)."

7. In the heading to regulation 5 (prohibited charge structures), after "prohibited charge structures" insert "- default arrangements".

8. After regulation 5 (prohibited charge structures), insert—

"Prohibited charge structures – qualifying collective money purchase schemes

5A.—(1) The description of the charges which are prohibited under regulation 4(1ZA)(b) are charges under a charge structure other than—

- (a) a collective single charge structure; or
- (b) a collective combination charge structure.

(2) In these Regulations, a collective single charge structure is one under which charges are calculated solely by reference to the value of the members' rights under the scheme.

(3) In these Regulations, a collective combination charge structure is one under which charges are calculated by reference to the value of the members' rights under the scheme ('a collective existing rights charge') and either—

- (a) calculated as a percentage of the value of the members' contributions ('a collective contribution percentage charge'); or
- (b) calculated by reference to a period of time and not by reference to the members' contributions or to the value of the members' rights under the scheme ('a collective flat fee charge').

(4) For the purposes of regulation 4(1ZA)(b), neither the charge structure, nor the type of collective combination charge structure, that applies to the members may be changed during the charges year."

9. In the heading to regulation 6 (limits on charges)(b), after "limits on charges" insert "- default arrangements".

10. After regulation 6 (limits on charges) insert—

(a) There are amendments to section 124(1) which are not relevant to these Regulations.
(b) Regulation 6 was amended by S.I. 2017/774.

“Limits on charges – qualifying collective money purchase schemes

6A.—(1) The limits on charges for the purposes of regulation 4(1ZA)(a) are the limits specified in this regulation and the trustees must choose whether to assess them in accordance with regulation 7A or 8A (but see regulation 8A(6)).

(2) The limit in the case of a collective single charge structure is 0.75% annually of the value of the members’ rights under the scheme.

(3) The limit in the case of a collective combination charge structure whose charges fall within regulation 5A(3)(a) is—

- (a) in relation to the collective contribution percentage charge, 2.5% of the members’ contributions allocated under the scheme—
 - (i) annually, or
 - (ii) where in relation to a charges year, regulation 4 does not apply to the members for the whole of the year, in the period for which that regulation applies; and
- (b) in relation to the collective existing rights charge, the percentage annually of the value of the members’ rights under the scheme which is the figure in Column 2 of the following table which corresponds to the collective contribution percentage charge rate in Column 1 of that table which is imposed on the members.

<i>Collective contribution percentage charge rate (%)</i>	<i>Collective existing rights charge rate (%)</i>
1 or lower	0.6
Higher than 1 but no higher than 2	0.5
Higher than 2 but no higher than 2.5	0.4

(4) The limit in the case of a collective combination charge structure whose charges fall within regulation 5A(3)(b) is—

- (a) in relation to the collective flat fee charge, £25 annually per member; and
- (b) in relation to the collective existing rights charge, the percentage annually of the value of the members’ rights under the scheme which is the figure in Column 2 of the following table which corresponds to the amount of the annual collective flat fee charge per member in Column 1 of that table which is imposed on the members.

<i>Collective flat fee charge (£ per year per member)</i>	<i>Collective existing rights charge rate (%)</i>
10 or less	0.6
More than 10 but no more than 20	0.5
More than 20 but no more than 25	0.4”

11. In the heading to regulation 7 (assessment of charges), after “assessment of charges” insert “- default arrangements”.

12. After regulation 7 (assessment of charges) insert—

“Assessment of charges – qualifying collective money purchase schemes

7A.—(1) If the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation, the following provisions apply.

(2) Trustees must calculate the value of the members’ rights under the scheme at reference points set at equal intervals during the charges year of no more than 3 months (but see paragraph (3)).

(3) Where trustees change the intervals between reference points chosen for the purposes of paragraph (2) during the charges year, the start of the first new interval must commence on the day following the reference point at the end of the previous interval.

- (4) The limit of permitted charges under—
- (a) a collective single charge structure; or
 - (b) a collective existing rights charge in a collective combination charge structure,
- is exceeded if the charges imposed on the members annually exceed the average of the reference point values multiplied by the applicable percentage.
- (5) The applicable percentage is—
- (a) in the case of a collective single charge structure, 0.75%; and
 - (b) in the case of a collective existing rights charge in a collective combination charge structure, the percentage in Column 2 of the table—
 - (i) in regulation 6A(3), where a collective contribution percentage charge is imposed; and
 - (ii) in regulation 6A(4), where a collective flat fee is imposed.
- (6) Where the members have rights under the scheme at only one reference point referred to in paragraph (2), paragraph (4) is to be read as if the words “average of the reference point values” read “value at the reference point”.
- (7) Where the members have no rights under the scheme at a reference point referred to in paragraph (2), paragraph (4) is to be read as if the words “average of the reference point values” read “value of the members’ rights under the scheme on the final day of the charges year or, where the members have no such rights on that day, on the final day on which the members have such rights.
- (8) In this regulation monthly, 2 monthly and 3 monthly intervals are to be treated as equal intervals.
- (9) Paragraph (10) applies where the charges imposed on the members include a performance fee payable at the end of the investment period.
- (10) For the purposes of paragraph (4), the charge imposed annually on the members in relation to the performance fee may be treated as X divided by Y , where—
- (a) X is the sum of the performance fees accrued in relation to the return earned by the assets in the scheme (“the relevant assets”) during the relevant charges year and each of the preceding charges years, up to a maximum of four preceding charges years, and
 - (b) Y is—
 - (i) 5, or
 - (ii) where the investment period is less than 5 charges years, the number of charges years in the relevant period.
- (11) Where the trustees choose to calculate the charge imposed annually on the members in accordance with paragraph (10), the trustees must, at the end of each charges year during the investment period, calculate—
- (a) the return earned by the relevant assets during that charges year;
 - (b) the performance fee which has accrued in relation to that return.
- (12) In this regulation, “investment period” means the total period for which the assets in the scheme are invested in an investment for which a performance fee is payable at the end of the investment period.”.

13. In the heading to regulation 8 (alternative assessment of charges) after “charges” insert “-default arrangements”.

14. After regulation 8 (alternative assessment of charges) insert—

“Alternative assessment of charges – qualifying collective money purchase schemes

8A.—(1) If the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation, the limit of permitted charges under—

- (a) a collective single charge structure; or
- (b) a collective existing rights charge in a collective combination charge structure,

is not exceeded, if on the first day of the charges year, the charges regime to be applied to the members’ rights under the scheme meets the requirement in paragraph (2) and that charges regime is applied to the members’ rights throughout that charges year.

(2) The requirement referred to in paragraph (1) is that the charges regime would not result in charges being imposed on the members exceeding the limit of permitted charges when calculated in accordance with regulation 7A, if the assumptions in paragraph (3) and, if the trustees so choose, the assumption in paragraph (4) are made for the purposes of those calculations.

(3) The assumptions to be made for the purposes of paragraph (2) are—

- (a) the value of the members’ rights under the scheme will not increase or decrease during the charges year when compared to the value on the first day of the charges year, other than as a result of charges imposed on the members; and
- (b) all the members may leave the scheme at any time during that charges year.

(4) The assumption which may be made for the purposes of paragraph (2) is that, where the charges include a performance fee to which regulation 7A(10) applies, the charge to be imposed on the members in relation to the forthcoming charges year will be X divided by Y, where—

- (a) X is the sum of the performance fees accrued in relation to the return earned by the assets in the scheme during each of the years preceding the charges year in question, up to a maximum of five preceding charges years, and
- (b) Y is—
 - (i) 5, or
 - (ii) where the investment period is less than 5 charges years, the number of charges years in the relevant period.

(5) In this regulation, “charges regime” means—

- (a) the charges to be imposed, and any rebates of charges to be applied, as a percentage of the value of the members’ rights under the scheme;
- (b) when they are to be deducted from, or added to, the value of the members’ rights throughout the charges year;
- (c) how the value of the members’ rights will be calculated for the purposes of imposing or rebating charges.

(6) Where the first contribution to the scheme is made after the first day of the charges year, paragraphs (1) and (3)(a) are to be read as if “on the first day of the charges year” were “on the date on which the first contribution is made in a charges year”.

(7) Where the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation but, during the charges year the charges regime fails to meet the requirement in paragraph (2), the trustees must assess charges for the whole charges year in accordance with regulation 7A.”.

15.—(1) Regulation 9 (member agreement for services)(a) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Subject to paragraph (3), the restrictions in regulation 4 do not apply---

(a) Regulation 9 was amended by S.I. 2017/774.

- (a) in the case of a member of a relevant scheme (that is not a collective money purchase scheme), in relation to advice or a service for which the member has entered into an agreement with a person for the provision of that advice or service, provided the conditions in paragraph (2) are satisfied;
- (b) with the exception of regulation 4(1A), in the case of the members of a relevant scheme (that is a qualifying collective money purchase scheme), in relation to advice or a service for which a member has entered into an agreement with a person for the provision of that advice or service, provided the conditions in paragraph (2) are satisfied.”.

(3) In sub-paragraph (b)(ii) of paragraph (2), after “default arrangement” insert “or under a qualifying collective money purchase scheme, as applicable”.

(4) After sub-paragraph (e) of paragraph (4) insert—

“(f) a transfer out of a qualifying collective money purchase scheme into a different scheme;

(g) a transfer into a qualifying collective money purchase scheme.”.

16. In paragraph (1) of regulation 10 (charge limits adjustment), after “relevant scheme” insert “, that is not a collective money purchase scheme,”.

17. In paragraph (5) of regulation 11 (non-contributing members), in the definition of “relevant scheme” for “regulation 2(2)” substitute “regulation 2(2)(a) or (b)”.

18.—(1) Regulation 11A (payments to advisers)(a) is amended as follows.

(2) In paragraph (1), the existing text after “applies” becomes sub-paragraph (a).

(3) At the end of that sub-paragraph, insert “; or”.

(4) After that sub-paragraph, insert—

“(b) to a member of a specified section, if the member is, or was, a worker of a qualifying section employer who participates or has participated in the section.”.

(5) In paragraph (3), after “specified scheme” in each place that it occurs insert “or specified section, as applicable”.

19. In regulation 11B (relevant information)(b), after paragraph (7) insert—

“(8) In this regulation, in relation to a specified section, references to a “specified scheme” are to be read as references to a “specified section”.”.

20. In paragraph (5) of regulation 11C (member agreement for payment to advisers)(c), at the appropriate place insert—

““specified scheme” does not include a relevant scheme that is a collective money purchase scheme.”.

Amendments to the Occupational Pension Schemes (Scheme Administration) Regulations 1996

21.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations 1996 are amended as follows.

(2) In regulation 1(2), in the appropriate place insert—

“collective money purchase scheme” means a scheme or a section of a scheme which is collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021;”.

(3) In regulation 3—

(a) Regulation 11A was inserted by S.I. 2016/304 and was amended by S.I. 2017/774.

(b) Regulation 11B was inserted by S.I. 2016/304 and was amended by S.I. 2017/774.

(c) Regulation 11C was inserted by S.I. 2016/304 and was amended by S.I. 2017/774.

- (a) in paragraph (2)(a), after “schemes” insert “other than to the extent to which they provide collective money purchase benefits”;
 - (b) after paragraph (2) insert—
 - “(2A) In paragraph (2), “collective money purchase benefits” are benefits which are collective money purchase benefits for the purposes of Part 1 of the Pension Schemes Act 2021.”.
- (4) In regulation 23—
- (a) in paragraph (1),
 - (i) in sub-paragraph (a), after “default arrangement” insert “(if any)”;
 - (ii) in sub-paragraph (aa)(i), after “default arrangement” insert “(if any)”;
 - (iii) in sub-paragraph (aa)(ii), after “fund” insert “(if any)”;
 - (iv) in sub-paragraph (c)(i), after “default arrangement” insert (if any);
 - (v) in sub-paragraph (c)(ii), after “fund” insert (if any);
 - (b) after sub-paragraph (c) insert—
 - “(cza) for a collective money purchase scheme, state—
 - (i) the charges and transactions applicable to the fund; and
 - (ii) the return on investments, after deduction of any charges or transaction costs relating to those investments, relating to the fund, having regard to guidance issued by the Secretary of State under section 113(2A) of the Pension Schemes Act 1993;”.
- (5) in regulation 25—
- (a) in paragraph (1A), after “scheme” insert “other than a collective money purchase scheme”;
 - (b) after paragraph (1A) insert—
 - “(1ZA) As part of the assessment referred to in paragraph (1)(b), the trustees of a collective money purchase scheme must assess how the administrative and governance criteria set out in paragraph (1C) are met by the scheme.”;
 - (c) in paragraph (1C)—
 - (i) in sub-paragraph (c), after strategy insert “(if any)”;
 - (ii) after sub-paragraph (c) insert—
 - “(ca) for a collective money purchase scheme, the appropriateness of the investment strategy followed by its trustees;”;
 - (d) In paragraph (5), in the appropriate place insert—
 - ““investment strategy” means the investment strategy referred to in regulation 2(3) of the Investment Regulations;”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the new authorisation and supervisory regime for collective money purchase schemes under Part 1 of the Pension Schemes Act 2021 (c. 1) (“the Act”). They also make provision for amendments to secondary legislation in relation to schemes providing collective money purchase benefits.

Part 1 of these Regulations contains introductory provisions. In particular, regulation 3 sets out when one employer is treated as connected with another employer for the purposes of Part 1 of the Act.

Part 2 of these Regulations makes provision relating to sections of qualifying schemes. In particular, regulation 4 sets out certain characteristics of qualifying benefits. If a scheme provides a combination of qualifying benefits where these characteristics are different, those benefits must be provided under different sections. Regulation 5 makes provision about where an authorisation granted in respect of an undivided collective money purchase scheme will apply to a section following the division of the scheme into sections.

Part 3 of these Regulations makes provision relating to the authorisation of a collective money purchase scheme. Regulation 6 sets out the information to be included in an application to the Pensions Regulator (“the Regulator”) for authorisation (in addition to the information specified in the Act). Regulation 6 also introduces Part 1 of Schedule 3, which sets out the information to be included in an application in relation to whether a scheme is financially sustainable.

Regulation 7 requires an application for authorisation to be accompanied by a fee payable to the Regulator, which is either a set amount or in certain circumstances an amount specified by the Regulator, to be determined.

Regulation 8 introduces Schedule 1, which sets out the matters that the Regulator must take into account in assessing whether a person involved in a collective money purchase scheme is a fit and proper person. Regulation 8 also makes provision for this assessment in cases where a person involved in a collective money purchase scheme is a body corporate.

Regulation 9 relates to the scheme design requirement. It introduces Part 1 of Schedule 2, which sets out the information that must be included in a viability certificate provided by the scheme actuary. Regulation 9 also sets out the matters the scheme actuary must have regard to when providing a viability certificate and considering whether the design of the scheme is sound.

Regulation 10 introduces Part 2 of Schedule 2, which sets out the information that must be contained in a viability report prepared by the trustees of a collective money purchase scheme. Regulation 10 also sets out more detail relating to the preparation of the viability report.

Regulation 11 introduces Part 3 of Schedule 2 which sets out the matters that the Regulator must take into account in deciding whether the design of a collective money purchase scheme is sound.

Regulation 12 introduces part 2 of Schedule 3, which sets out the matters that the Regulator must take into account in deciding whether it is satisfied that a collective money purchase scheme is financially sustainable, and Part 3 of Schedule 3 which sets out requirements to be met by a collective money purchase scheme in relation to its financing.

Regulation 13 introduces Schedule 4 which sets out the matters that the Regulator must take into account in deciding whether it is satisfied that a collective money purchase scheme has adequate systems and processes for communicating with members and others.

Regulation 14 introduces Schedule 5 which sets out the matters that the Regulator must take into account in deciding whether the systems and processes used in running a collective money purchase scheme are sufficient to ensure that the scheme is run effectively.

Regulation 15 contains requirements about a collective money purchase scheme’s continuity strategy and sets out information that must be included in the strategy. A continuity strategy is a document setting out how the interests of members of the scheme are to be protected if a triggering event occurs in relation to the scheme. Regulation 16 contains requirements about how the continuity strategy must set out levels of administration charges that apply in relation to members of the scheme.

Part 4 of these Regulations relates to valuation and benefit adjustments. Regulation 17 sets out provisions that the rules of a collective money purchase scheme must contain relating to the determination of the value of the available assets of the scheme, the determination of the required amount and the adjustment of the rate or amount of benefits provided under the scheme. Regulation 17 also makes provision for where trustees of a collective money purchase scheme apply a multi-annual reduction to the rate or amount of benefits provided under the scheme.

Regulation 18 makes provision regarding guidance to which the scheme actuary must have regard when advising the trustees of a collective money purchase scheme.

Regulation 19 makes provision regarding actuarial valuations of the scheme including when the trustees of a collective money purchase scheme must obtain an actuarial valuation and what the valuation must contain.

Regulation 20 sets out the information that must be included in a report given by the trustees of a collective money purchase scheme to the Regulator if a benefit adjustment is not made in accordance with the most recent actuarial valuation or does not take effect in accordance with scheme rules.

Regulation 21 makes provision regarding what must be included in a direction issued by the regulator under section 23 of the Act (powers of the Pensions Regulator).

Part 5 of these Regulations makes provision about the ongoing supervision by the Regulator of a collective money purchase scheme. Regulation 22 sets out the information which the Regulator may require to be included in the supervisory return (a document which the Regulator may require schemes to submit to it).

Regulation 23 lists the significant events in relation to the scheme, which are events which must be notified to the Regulator by persons specified in the Act. Regulation 23 also sets out further information that must be provided to the Regulator by a person who is required to give notice of a significant event.

Regulation 24 makes provision about risk notices including what must be contained in a risk notice. Risk notices are notices given by the Regulator to the trustees of a collective money purchase scheme under section 29 of the Act (risk notices).

Part 6 of these Regulations makes provision about triggering events and continuity options. Regulation 25 sets out the matters which must be notified by a trustee to employers and relevant former employers if a triggering event occurs in relation to a collective money purchase scheme; and when notifications under section 33 of the Act (notification of triggering events) must be given.

Regulation 26 sets out when an implementation strategy must be submitted to the Regulator for approval. An implementation strategy is a document setting out how the interests of members of a collective money purchase scheme are to be protected following the occurrence of a triggering event.

Regulation 27 sets out the information to be included in an implementation strategy about levels of administration charges in relation to members of the scheme. Regulation 28 sets out other information that an implementation strategy must contain.

Regulation 29 introduces Schedule 6 which sets out the procedure to be followed when a triggering event has occurred and the trustees of a collective money purchase scheme are required, or decide, to pursue continuity option 1 (under which the scheme's liabilities to each beneficiary are discharged by transfer out of the scheme, or securing the payment of benefits by some other means, and the scheme is wound up).

Regulation 30 applies where a triggering event has occurred and the trustees of a collective money purchase scheme are pursuing continuity option 2 (resolving triggering event). It prescribes the deadline for a scheme's trustees to notify the Regulator when they believe that a triggering event has been resolved.

Regulation 31 applies where a triggering event has occurred and the trustees of a collective money purchase scheme are pursuing continuity option 3 (conversion to closed scheme). It prescribes the deadline for a scheme's trustees to notify the Regulator when they consider that preparations for the conversion of the scheme into a closed scheme are complete.

Regulation 32 prescribes the deadline for a scheme's trustees to submit their first periodic report to the Regulator during a triggering event period, and specifies the information which reports must contain in addition to that required by the Act.

Regulation 33 modifies section 99 of the Pension Schemes Act 1993 (c. 48) (trustees' duties) as it applies to a collective money purchase scheme in respect of which the Regulator has made a pause order under section 44 of the Act (pause orders).

Regulation 34 sets out the administration charges that are not included in the prohibition on increasing charges etc. during a triggering event period for a collective money purchase scheme in section 45 of the Act (prohibition on increasing charges etc during triggering event period). It also applies the provisions of section 45 of the Act to certain receiving schemes.

Part 7 of these Regulations makes provision for amendments to secondary legislation in relation to schemes providing collective money purchase benefits. In particular, regulation 35 introduces Schedule 7 which contains amendments to the Occupational Pension Schemes (Charges and Governance) Regulations 2015 (S.I. 2015/879) and to the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (S.I. 1996/1715) in relation to collective money purchase schemes.

[Provision about any assessment of the effect that this instrument will have on the costs of business]