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## **Pension Schemes Act 2021**

### **2021 CHAPTER 1**

An Act to make provision about pension schemes.

[11th February 2021]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **PART 1**

#### COLLECTIVE MONEY PURCHASE BENEFITS

##### *Definitions*

#### **1 Collective money purchase benefits and schemes**

(1) For the purposes of this Part, a benefit provided under a pension scheme is a “collective money purchase benefit” if—

- (a) the benefit is a qualifying benefit (see section 2), and
- (b) the scheme is a qualifying scheme (see sections 3 and 4).

(2) In this Part “collective money purchase scheme” means—

- (a) a qualifying scheme, or
- (b) a section of a qualifying scheme (see sections 3(6) to (9) and 5),  
under which all of the benefits that may be provided are qualifying benefits.

(3) In this Part—

“single or connected employer scheme” means a collective money purchase scheme not used, or intended to be used, by any employers other than—

(a) a single employer, or

(b) two or more employers that are connected with each other;

“unconnected multiple employer scheme” means a collective money purchase scheme used, or intended to be used, by two or more employers some or all of which are not connected with each other.

## **2 Qualifying benefits**

(1) A benefit provided under a pension scheme is a “qualifying benefit” if—

(a) the benefit is provided out of the available assets of the scheme,

(b) under the rules of the scheme, the rate or amount of the benefit is subject to periodic adjustments designed to achieve a balance between the value of the available assets of the scheme and the required amount, and

(c) the benefit is not of a description specified in regulations made by the Secretary of State.

(2) In subsection (1)—

“the available assets of the scheme” means all the assets that—

(a) arise or derive from the payments made by or in respect of members of the scheme, and

(b) are available (subject to any deductions that fall to be made in respect of administration charges) for the provision of benefits to or in respect of the members of the scheme collectively;

“the required amount” means the amount expected to be required, applying appropriate actuarial assumptions, for the purpose of providing benefits under the scheme to or in respect of the members of the scheme collectively.

(3) Regulations under subsection (1)(c) are subject to affirmative resolution procedure.

(4) Where a scheme is divided into sections, this section has effect as if—

- (a) the reference to the scheme in subsection (1)(a) were a reference to a section of the scheme, and
- (b) the other references to the scheme were references to that section of it.

### 3 Qualifying schemes

- (1) A pension scheme is a “qualifying scheme” if it meets the requirements in this section.
- (2) The scheme must be an occupational pension scheme established under an irrevocable trust by a person or persons to whom section 1(2)(a) (employer) of the Pension Schemes Act 1993 applied when the scheme was established (without other persons).
- ~~(3) The scheme must be used, or intended to be used, only by—
  - ~~(a) a single employer, or~~
  - ~~(b) two or more employers that are connected with each other.~~~~
- (4) The scheme must not be a relevant public service pension scheme (see section 4).
- (5) The qualifying benefits provided under the scheme must consist of or include the payment of a pension.
- (6) If the scheme provides both qualifying benefits and other benefits, there must be appropriate separation of the qualifying benefits.
- (7) There is “appropriate separation” of qualifying benefits and other benefits if (and only if)—
  - (a) the scheme is divided into sections,
  - (b) none of the sections under which qualifying benefits are provided provides other types of benefit,
  - (c) payments made by or in respect of members of the scheme for the purpose of providing qualifying benefits under a section of the scheme are allocated to that section, and
  - (d) a proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section.
- (8) If the scheme provides a combination of qualifying benefits with different characteristics that is described in regulations made by the Secretary of State, there must be appropriate separation of those qualifying benefits.

(9) There is “appropriate separation” of qualifying benefits with different characteristics if (and only if)—

- (a) the scheme is divided into sections,
- (b) each of the different types of qualifying benefit is provided under a different section,
- (c) payments made by or in respect of members of the scheme for the purpose of providing qualifying benefits under a section of the scheme are allocated to that section, and
- (d) a proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section.

(10) Regulations under subsection (8) are subject to negative resolution procedure.

#### **4 Qualifying schemes: supplementary**

(1) For the purposes of section 3(4) a pension scheme is a relevant public service pension scheme if it is—

- (a) a public service pension scheme within the meaning of the Pension Schemes Act 1993 (see section 1(1) of that Act),
- (b) a scheme under section 1 of the Public Service Pensions Act 2013 (new public service schemes),
- (c) a new public body pension scheme as defined in section 30 of that Act, or
- (d) a statutory pension scheme that is connected with a scheme referred to in paragraph (b) or (c).

(2) In subsection (1)(d) “connected” and “statutory pension scheme” have the same meaning as in the Public Service Pensions Act 2013 (see sections 4(6) and 37 of that Act).

(3) The reference to a pension in section 3(5) does not include income withdrawal or dependants' income withdrawal within the meaning of paragraphs 7 and 21 of Schedule 28 to the Finance Act 2004.

#### **5 Schemes divided into sections**

(1) The Secretary of State may by regulations make provision about when a pension scheme is or is not divided into sections for the purposes of this Part.

(2) The Secretary of State may by regulations provide that, where a collective money purchase scheme that is not divided into sections (an “undivided scheme”) becomes a collective money purchase scheme that is divided into sections, an authorisation previously granted in respect of the undivided scheme applies to any of those sections that—

(a) is a collective money purchase scheme by reason of section 1(2)(b), and

(b) satisfies conditions specified in the regulations.

(3) For the purposes of this Part, where—

(a) a qualifying scheme is divided into sections, and

(b) each of those sections is a collective money purchase scheme by reason of section 1(2)(b),

the qualifying scheme (taken as a whole) is to be treated as if it were not a collective money purchase scheme.

(4) Regulations under subsection (1) are subject to negative resolution procedure.

(5) Regulations under subsection (2) are subject to affirmative resolution procedure.

## **6 Amendment of definitions of “money purchase benefits” etc**

(1) Schedule 1 contains amendments of definitions of “money purchase benefits” in—

(a) Schedule 10A to the Building Societies Act 1986 (disclosures about directors, other officers and employees in notes to accounts);

(b) the Pension Schemes Act 1993;

(c) Part 1 of the Pensions Act 2008 (pension scheme membership for jobholders).

(2) In section 32 of the Pensions Act 2011 (power to amend definitions of “money purchase benefits” in certain Acts)—

(a) in subsection (1)—

(i) for “purpose the” substitute “purpose—

(a) the”;

(ii) at the end insert “, or

(b) section 2 of the Pension Schemes Act 2021 (collective money purchase benefits: meaning of “qualifying benefits”).”;

(b) in subsection (2), at the end insert “ or by Schedule 1 to the Pension Schemes Act 2021 ”.

### *Authorisation*

## **7 Authorisation of collective money purchase schemes**

(1) A person may not operate a collective money purchase scheme unless the scheme is authorised.

(2) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who breaches subsection (1).

(3) If the Pensions Regulator becomes aware that a collective money purchase scheme is being operated without authorisation, it must notify the trustees of the scheme that the scheme is not authorised.

(4) The notification must—

(a) explain that the notification is a triggering event (see section 31), and

(b) include an explanation of the trustees' duties under sections 31 to 45.

(5) For the purposes of this section a person “operates” a collective money purchase scheme if, in relation to the scheme, the person accepts—

(a) money paid by a member (or prospective member), or

(b) money paid by an employer (or prospective employer) in respect of contributions, fees, charges or anything else except—

(i) the costs of setting up the scheme, or

(ii) costs relating to obtaining authorisation for the scheme.

## **8 Application for authorisation**

(1) The trustees of a collective money purchase scheme may apply to the Pensions Regulator for authorisation.

(2) An application must be made in the manner and form specified by the Pensions Regulator.

(3) An application must include—

- (a) the scheme's viability report and viability certificate (see section 13), ~~and~~  
(aa) where the scheme is an unconnected multiple employer scheme—
- (i) the scheme's business plan (see section 14A),
  - (ii) the scheme's latest accounts (if any), and
  - (iii) the latest accounts of the scheme proprietor (see section 14B) (if any), and of any undertaking that partly or wholly funds the scheme proprietor ("relevant undertaking"), prepared and audited in accordance with the requirements of Parts 15 and 16 of the Companies Act 2006, and
- (b) the scheme's continuity strategy (see section 17).

(3A) If Parts 15 and 16 of the Companies Act 2006 do not otherwise apply to a scheme proprietor or to a relevant undertaking, the references to the requirements of those Parts in subsection (3)(aa)(iii) are to those requirements with any modifications necessary to take account of the nature and structure of the scheme proprietor or relevant undertaking.

(4) The Secretary of State may by regulations—

- (a) specify other information that must be included in an application;
- (b) require a fee to be paid to the Pensions Regulator in respect of an application.

(5) In considering an application, the Pensions Regulator may take into account any matters it considers appropriate, including—

- (a) additional information provided by the applicant, and
- (b) subsequent changes to the application or to any information provided by the applicant.

(6) Regulations under subsection (4) are subject to negative resolution procedure.

## **9 Decision on application**

(1) Where an application is made for authorisation of a collective money purchase scheme under section 8, the Pensions Regulator must decide whether it is satisfied that the scheme meets the authorisation criteria.

(2) The Pensions Regulator must make that decision within the period of six months beginning with the day on which the Pensions Regulator received the application.

(3) The authorisation criteria are—

(a) that the persons involved in the scheme are fit and proper persons (see section 11),

(b) that the design of the scheme is sound (see section 12),

(c) that the scheme is financially sustainable (see section 14),

(ca) where the scheme is an unconnected multiple employer scheme, that—

(i) the scheme has a single scheme proprietor (see section 14B), and

(ii) the scheme proprietor meets the requirements set out in section 14C,

(cb) where the scheme is an unconnected multiple employer scheme, that—

(i) no person has carried out promotion or marketing of the scheme that is unclear or misleading without rectification (see section 14D(1)), and

(ii) the scheme has adequate systems and processes for security that promotion or marketing of the scheme is clear and not misleading (see section 14D(1) and (2)),

(cc) where the scheme is an unconnected multiple employer scheme, that the trustees of the scheme do not—

(i) promote or market the scheme, or

(ii) act as a chief financial officer for the scheme,

(d) that the scheme has adequate systems and processes for communicating with members and others (see section 15),

(e) that the systems and processes used in running the scheme are sufficient to ensure that it is run effectively (see section 16), ~~and~~

(f) that the scheme has an adequate continuity strategy (see section 17), ~~and~~

(g) where the scheme is an unconnected multiple employer scheme, that if—

(i) a triggering event occurs in relation to the scheme, and

(ii) the circumstances are such that the trustees of the scheme are not required to pursue continuity option 1 by virtue of section 34(3),

the trustees will not be prevented from pursuing continuity option 3 if they consider it appropriate to do so (see sections 17A, 31 and 34).

(3A) Subsection (3)(cb)(ii) does not apply if no person is carrying out promotion or marketing of the scheme.

(4) If the Pensions Regulator is satisfied that the collective money purchase scheme meets the authorisation criteria, it must—

- (a) grant the authorisation,
- (b) notify the applicant of its decision, and
- (c) add the scheme to its list of authorised collective money purchase schemes (see section 26).

(5) If the Pensions Regulator is not satisfied that the collective money purchase scheme meets the authorisation criteria, it must—

- (a) refuse to grant the authorisation, and
- (b) notify the applicant of its decision.

(6) A notification under subsection (5)(b) must also include—

- (a) the reasons for the decision, and
- (b) details of the right of referral to the First-tier Tribunal or Upper Tribunal (see section 10).

(7) In this Part—

“promotion or marketing” of a scheme means any communication about the scheme for the purpose of inducing an employer to use, or continue to use, the scheme (whether or not that communication is accompanied by an offer of, or provision of, a benefit) and “promote or market” is to be construed accordingly;

“rectification”, in relation to promotion or marketing that is unclear or misleading, means that a clarification or correction is made in relation to the promotion or marketing as soon as practicable.

## **9A Commencement of operation of an unconnected multiple employer scheme**

(1) Subsection (3) applies if—

- (a) the Pensions Regulator grants authorisation to an unconnected multiple employer scheme, and
- (b) no person has operated the scheme within the commencement period.

(2) Section 7(5) (meaning of “operates”) applies for the purposes of this section.

(3) Where this subsection applies—

- (a) the scheme's authorisation is withdrawn, and
- (b) the Pensions Regulator must—
  - (i) notify the trustees that the scheme is no longer authorised, and
  - (ii) remove the scheme from the list of authorised collective money purchase schemes (see section 26).

(4) The commencement period, in relation to a scheme, is the period of 18 months beginning with the day on which the Pensions Regulator received the application for authorisation of the scheme.

(5) But if, before the end of that 18-month period, the trustees of the scheme satisfy the Pensions Regulator that they have good reason for needing an extension to the period, the Regulator may extend the commencement period by up to six weeks.

(6) A notification to the trustees of an unconnected multiple employer scheme under section 9(4)(b) must state—

- (a) the date on which the commencement period ends, and
- (b) that if no person has operated the scheme by that date, the authorisation will be withdrawn.

(7) If no person has operated an authorised unconnected multiple employer scheme before the beginning of the period of three months ending with the date on which the commencement period ends, the Pensions Regulator must send a second notification to the trustees of the scheme stating the matters specified in subsection (6)(a) and (b).

## **10 Reference to Tribunal of refusal to grant authorisation**

(1) If the Pensions Regulator refuses to grant authorisation to a collective money purchase scheme, the decision may be referred to the Tribunal by—

- (a) the trustees, or
- (b) any other person who appears to the Tribunal to be directly affected by the decision.

(2) In this section “the Tribunal”, in relation to a reference under subsection (1), means—

- (a) the First-tier Tribunal, in any case where it is determined by or under Tribunal Procedure Rules that the First-tier Tribunal is to hear the reference;
- (b) the Upper Tribunal, in any other case.

## *Authorisation criteria*

### **11 Fit and proper persons requirement**

(1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that the persons involved in a collective money purchase scheme are fit and proper persons (see section 9(3)(a)).

(2) The Pensions Regulator must assess whether each of the following is a fit and proper person to act in relation to the scheme in the capacity mentioned—

(a) a person who establishes the scheme;

(b) a trustee;

(ba) where the scheme is an unconnected multiple employer scheme, the scheme proprietor (see section 14B);

(bb) where the scheme is an unconnected multiple employer scheme, a person who promotes or markets the scheme;

(bc) where the scheme is an unconnected multiple employer scheme, a chief financial officer of the scheme;

(c) a person who (alone or with others) has power to appoint or remove a trustee;

(d) a person who (alone or with others) has power to vary the provisions of the scheme;

(e) a person acting in a capacity specified in regulations made by the Secretary of State.

(3) In assessing whether a person is a fit and proper person to act in a particular capacity, the Pensions Regulator—

(a) must take into account any matters specified in regulations made by the Secretary of State, and

(b) may take into account such other matters as it considers appropriate, including matters relating to a person connected with that person.

(4) Regulations under subsection (3)(a) may include provision requiring specified information to be provided to the Pensions Regulator.

(5) For the purposes of this section, a person (“A”) is connected with another person (“B”) if—

- (a) A is an associate of B;
- (b) where B is a company, A is a director or shadow director of B or an associate of a director or shadow director of B;
- (c) A is a trustee of an occupational pension scheme established under a trust and—
  - (i) the beneficiaries of the trust include B or an associate of B, or
  - (ii) the provisions of the scheme confer a power that may be exercised for the benefit of B or an associate of B.

(6) In this section—

“associate” has the meaning given in section 435 of the Insolvency Act 1986;

“director” and “shadow director” have the meaning given in section 251 of that Act.

(7) Regulations under subsection (3)(a) are subject to affirmative resolution procedure.

(8) Regulations under subsection (2)(e) are subject to negative resolution procedure.

## **12 Scheme design requirement**

(1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that the design of a collective money purchase scheme is sound (see section 9(3)(b)).

(2) In deciding whether the design of a collective money purchase scheme is sound, the Pensions Regulator must take into account—

- (a) the scheme's viability report and viability certificate (see section 13);
- (b) any matters specified in regulations made by the Secretary of State.

(3) Regulations under subsection (2)(b) may include provision requiring specified information to be provided to the Pensions Regulator.

(4) Regulations under subsection (2)(b) are subject to affirmative resolution procedure.

## **13 Viability report**

- (1) The trustees of a collective money purchase scheme must—
  - (a) prepare a document explaining the design of the scheme and the reasons that they consider the design to be sound (a “viability report”), and
  - (b) obtain a certificate from the scheme actuary certifying that, in the actuary's opinion, the design of the scheme is sound (a “viability certificate”).
- (2) The scheme actuary may not give a viability certificate unless satisfied that the scheme has rules that meet the requirements of section 18 and any regulations under that section.
- (3) The Secretary of State may by regulations—
  - (a) specify information that must be included in a viability report,
  - (b) specify other requirements with which a viability report must comply,
  - (c) make provision about the content of a viability certificate,
  - (d) specify matters to which the scheme actuary must have regard when providing a viability certificate, and
  - (e) make provision about additional information or documents that must be prepared or obtained in connection with a viability report.
- (4) The trustees of a collective money purchase scheme must, at least once a year—
  - (a) review the most recent viability report,
  - (b) if appropriate, revise it, and
  - (c) obtain a new viability certificate in respect of the report (or revised report).
- (5) If the most recent viability report becomes inaccurate or incomplete to any significant extent, the trustees must—
  - (a) revise the report, and
  - (b) obtain a new viability certificate in respect of the revised report.
- (5A) The viability report of an unconnected multiple employer scheme, and any revised report, must be approved by the scheme proprietor (see section 14B).**
- (6) The trustees must provide the Pensions Regulator with the information and documents listed in subsection (7)—
  - (a) on applying for authorisation (see section 8),
  - (b) within three months of the viability report being revised, and
  - (c) at any other time, on request from the Pensions Regulator.

(7) The information and documents to be provided are—

- (a) the most recent viability report;
- (b) the most recent viability certificate;
- (c) any additional information or documents specified or described in regulations under subsection (3)(e).

(8) Regulations under subsection (3) are subject to affirmative resolution procedure.

#### **14 Financial sustainability requirement**

(1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that a collective money purchase scheme is financially sustainable (see section 9(3)(c)).

(2) In order to be satisfied that a collective money purchase scheme is financially sustainable, the Pensions Regulator must be satisfied that the scheme has sufficient financial resources to meet the following costs—

- (a) the costs of setting up and running the scheme, and
- (b) in the event of a triggering event occurring—
  - (i) the costs of complying with the duties under sections 31 to 45, and
  - (ii) the costs of continuing to run the scheme for such period (which must be at least six months and no more than two years) as the Pensions Regulator thinks appropriate for the scheme.

(3) In deciding whether it is satisfied that a scheme has sufficient financial resources to meet the costs mentioned in subsection (2), the Pensions Regulator must take into account any matters specified in regulations made by the Secretary of State.

**(3A) In deciding whether it is satisfied that an unconnected multiple employer scheme has sufficient financial resources to meet the costs mentioned in subsection (2), the Pensions Regulator must also take into account—**

- (a) the liability of the scheme proprietor to provide funds to or in respect of the scheme for the purposes of meeting those costs (see section 14B), and**
- (b) the financial resources of the scheme proprietor.**

**(3B) In order to be satisfied that an unconnected multiple employer scheme is financially sustainable, the Pensions Regulator must also be satisfied that the business strategy relating to the scheme is sound.**

(3C) In deciding whether it is satisfied that the business strategy relating to an unconnected multiple employer scheme is sound, the Pensions Regulator—

(a) must take into account—

(i) the scheme's business plan, and any supporting documents and information (see section 14A);

(ii) the information and matters specified in Parts 1 and 2 of Schedule 1A;

(iii) any other document set out in a Code for the purposes of this paragraph, and

(b) may take into account the information specified in Part 3 of Schedule 1A.”

(4) Regulations under subsection (3) may include provision—

(a) requiring specified information to be provided to the Pensions Regulator (including information about the financial resources of the scheme proprietor);

(b) specifying requirements to be met by the scheme relating to its financing, such as requirements relating to assets, capital or liquidity.

(5) Regulations under subsection (3) are subject to affirmative resolution procedure.

#### **14A Financial sustainability requirement: business plan**

(1) The scheme proprietor of an unconnected multiple employer scheme must prepare a business plan for the scheme.

(2) A business plan must—

(a) include the information specified in Part 1 of Schedule 1B, and any other information set out in a Code for the purposes of this paragraph, unless Part 2 of that Schedule provides otherwise, and

(b) comply with the requirements specified in Part 2 of Schedule 1B, and any other requirements set out in a Code in relation to the information to be included in a business plan.

(3) The scheme proprietor must, at least once a year—

(a) review the most recent business plan, and

(b) if appropriate, revise it within three months of the scheme proprietor concluding that it is appropriate to revise the plan.

(4) The scheme proprietor must revise the most recent business plan at any time if—

- (a) there is any significant change to the information included in it, or
- (b) a triggering event (see section 31) has reduced the value of the financial resources of the scheme.

(5) The business plan, and any revised business plan, must be approved by the trustees of the scheme.

(6) The scheme proprietor or the trustees must provide the Pensions Regulator with the most recent business plan, and any supporting information or documents required by the Regulator—

- (a) on application for authorisation (see section 8),
- (b) where a revision is required as a result of a review under subsection (3), on completion of the revision,
- (c) where a revision is required under subsection (4), within three months of the plan being revised, and
- (d) at any other time, on request from the Pensions Regulator.

#### **14B Scheme proprietor**

(1) An unconnected multiple employer scheme has a single scheme proprietor (see section 9(3)(ca)(i)) if there is a person, but no more than one person, who meets all the criteria in subsection (2), in relation to the scheme.

(2) The criteria are—

(a) if the Pensions Regulator is considering an application for authorisation in relation to the scheme, that the person is liable to provide funds to or in respect of the scheme for the purposes of meeting—

- (i) some or all of the costs of setting up the scheme, and
- (ii) some or all of the costs relating to obtaining authorisation of the scheme,

(b) that the person is liable to provide funds to or in respect of the scheme in circumstances where administration charges received from or in respect of members are not sufficient to cover the balance (if any) of the costs of setting up, and obtaining authorisation of, the scheme and the costs of running it.

(c) that the person is liable, in the event of a triggering event occurring in relation to the scheme, to provide funds to or in respect of the scheme for the purposes of meeting—

(i) the costs of complying with the duties under sections 31 to 45 (see section 14(2)(b)(i)), and

(ii) the costs of continuing to run the scheme for such period (which must be at least six months and no more than two years) as the Pensions Regulator thinks appropriate for the scheme (see section 14(2)(b)(ii)), and

(d) that the person is responsible for making business decisions relating to the commercial activities of the scheme.

(3) In this Part, “the scheme proprietor”, in relation to a scheme, means the person who satisfies the criteria in subsection (2).

### **14C Scheme proprietor requirements**

(1) This section makes provision about the requirements that the scheme proprietor of an unconnected multiple employer scheme must meet in order for the scheme to meet the authorisation criterion mentioned in section 9(3)(ca)(ii).

(2) The first requirement is that the scheme proprietor is a body corporate or a partnership that is a legal person under the law by which it is governed.

(3) The second requirement is that the scheme proprietor only carries out activities that relate directly to unconnected multiple employer schemes in relation to which it is the scheme proprietor or prospective scheme proprietor.

(4) The third requirement is that the scheme proprietor is not a trustee of the scheme.

(5) The fourth requirement is that the scheme proprietor had accounts prepared and audited in accordance with the requirements of Parts 15 and 16 of the Companies Act 2006 at the time when it entered into the relationship or arrangement with the scheme by virtue of which it is the scheme proprietor.

(6) The scheme proprietor is excepted from the fourth requirement if—

(a) the scheme proprietor has deposited a proportion, set out in a Code, of the assets required to meet the costs mentioned in section 14(2) in a separate account in the name of the trustees with a deposit taker as defined in section 49(8A) of the Pensions Act 1995(a) (other responsibilities of trustees, etc), or

(b) the Pensions Regulator grants an exception from the requirement.

(7) A scheme proprietor ceases to be excepted from the fourth requirement under subsection (6) if—

(a) any of the proportion of the assets referred to in subsection (6)(a) is withdrawn from that account before the date on which the scheme proprietor provides accounts to the Pensions Regulator under this Part, or

(b) the Pensions Regulator withdraws an exception granted under subsection (6)(b).

(8) In this section “body corporate” has the meaning given in section 1173(1) of the Companies Act 2006.

(9) The reference in subsection (3) to activities that relate directly to unconnected multiple employer schemes is, in its application to such a scheme which is a section of a qualifying scheme, to be read as a reference to activities that relate directly to the qualifying scheme as a whole.

(10) If Parts 15 and 16 of the Companies Act 2006 do not otherwise apply to a scheme proprietor, the references to the requirements of those Parts in subsection (4) are to those requirements with any modifications necessary to take account of the nature and structure of the scheme proprietor.

#### **14D Promotion or marketing requirement**

(1) Part 1 of Schedule 1C sets out the matters that the Pensions Regulator must take into account in deciding whether it is satisfied that no person has carried out promotion or marketing of an unconnected multiple employer scheme that is unclear or misleading without rectification (see section 9(3)(cb)(i)).

(2) Part 2 of Schedule 1C sets out the matters that the Pensions Regulator must take into account in deciding whether it is satisfied that the scheme has adequate systems and processes for securing that promotion or marketing of the scheme is clear and not misleading (see section 9(3)(cb)(ii)).

(3) In deciding whether it is satisfied that an unconnected multiple employer scheme has adequate systems and processes for securing that the promotion or marketing of the scheme is clear and not misleading, the Pensions Regulator may take into account whether any promotion or marketing of the scheme has been unclear or misleading (whether or not it has been rectified).

#### **15 Communication requirement**

(1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that a collective money purchase scheme has adequate

systems and processes for communicating with members and others (see section 9(3)(d)).

(2) In order to be satisfied that a scheme has adequate systems and processes for communicating with members and others, the Pensions Regulator must be satisfied that the scheme has adequate systems and processes—

(a) for providing information in relation to the scheme to persons falling within subsection (3);

(b) for securing that information provided to those persons is correct and is not misleading.

(3) A person falls within this subsection if the person is—

(a) a member or prospective member of the scheme, or

(b) a person who has survived a member of the scheme and has an entitlement to benefits, or a right to future benefits, under the scheme rules in respect of the member.

(4) In making the decision, the Pensions Regulator—

(a) must take into account any matters specified in regulations made by the Secretary of State, and

(b) may take into account any communications made using the systems and processes referred to in subsection (2).

(5) Regulations under subsection (4)(a) may among other things—

(a) make provision about systems and processes used for assessing and improving the effectiveness of communications;

(b) make provision requiring specified information to be provided to the Pensions Regulator.

(6) Regulations under subsection (4)(a) are subject to affirmative resolution procedure.

## **16 Systems and processes requirements**

(1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that the systems and processes used in running a collective money purchase scheme are sufficient to ensure that it is run effectively (see section 9(3)(e)).

(2) In deciding whether it is satisfied that the systems and processes used in running the scheme are sufficient for that purpose, the Pensions Regulator must take into account any matters specified in regulations made by the Secretary of State.

(3) Regulations under subsection (2) may among other things—

- (a) make provision about the matters set out in subsection (4);
- (b) require specified information to be provided to the Pensions Regulator.

(4) The matters referred to in subsection (3)(a) are—

- (a) features and functionality required of the IT systems used in running the scheme;
- (b) standards that those IT systems must meet (for example, in relation to quality and in relation to security of data);
- (c) the maintenance of those IT systems;
- (d) records management, risk management and resource planning;
- (e) processes relating to transactions and investment decisions;
- (f) processes relating to the appointment and removal of trustees;
- (g) processes relating to the professional development of trustees;
- (h) processes relating to the appointment, removal, roles and responsibilities of—
  - (i) persons, other than the trustees, involved in running the scheme, and
  - (ii) persons involved in providing services in relation to the scheme.

(5) Regulations under subsection (2) are subject to affirmative resolution procedure.

## **17 Continuity strategy requirement**

(1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that a collective money purchase scheme has an adequate continuity strategy (see section 9(3)(f)).

~~(2) The trustees of a collective money purchase scheme must prepare a document addressing how the interests of members of the scheme are to be protected if a triggering event (see section 31) occurs in relation to the scheme (a “continuity strategy”).~~

(2) A document addressing how the interests of members of the scheme are to be protected if a triggering event (see section 31) occurs in relation to the scheme (a “continuity strategy”) must be prepared by—

- (a) where the scheme is a single or connected employer scheme, the trustees of the scheme;
- (b) where the scheme is an unconnected multiple employer scheme, the scheme proprietor.

(3) A continuity strategy must include a section setting out the levels of administration charges that apply in relation to members of the scheme.

(4) It must set out those levels of charges in the manner specified in regulations made by the Secretary of State.

(5) A continuity strategy must—

- (a) contain such other information as may be specified in regulations made by the Secretary of State, and
- (b) be prepared in accordance with regulations made by the Secretary of State.

(6) The trustees of a ~~single or connected employer scheme collective money purchase scheme~~ must—

- (a) keep the continuity strategy under review, and
- (b) revise it if appropriate.

(6A) The scheme proprietor of an unconnected multiple employer scheme must—

- (a) keep the continuity strategy under review, and
- (b) revise it if appropriate.

(6B) The continuity strategy of an unconnected multiple employer scheme, and any revisions to it, must be approved by the trustees of the scheme.

~~(7) The trustees must provide the continuity strategy to the Pensions Regulator—~~

- ~~(a) on application for authorisation (see section 8),~~
- ~~(b) within three months of the continuity strategy being revised, and~~
- ~~(c) at any other time, on request from the Pensions Regulator.~~

(7) The continuity strategy must be provided to the Pensions Regulator in accordance with subsection (7A)—

(a) where the scheme is a single or connected employer scheme, by the trustees;

(b) where the scheme is an unconnected multiple employer scheme, by the scheme proprietor.

(7A) The continuity strategy must be provided—

(a) on application for authorisation (see section 8),

(b) within three months of the continuity strategy being revised, and

(c) at any other time, on request from the Pensions Regulator.

(8) In deciding whether a continuity strategy is adequate, the Pensions Regulator must take into account any matters specified in regulations made by the Secretary of State.

(9) Regulations under subsection (8) may include provision requiring specified information to be provided to the Pensions Regulator.

(10) Regulations under this section are subject to affirmative resolution procedure.

### **17A Ability to pursue continuity option 3**

(1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that, unless required to pursue continuity option 1 by virtue of section 34(3), the trustees of an unconnected multiple employer scheme would not be prevented from pursuing continuity option 3 whenever they consider it appropriate to do so, should a triggering event occur in relation to the scheme (see section 9(3)(g)).

(2) In deciding whether it is satisfied that the trustees of the scheme would not be so prevented, the Pensions Regulator must take into account whether there would be any constraints or fetters on the trustees when deciding whether to pursue continuity option 3, should a triggering event occur.

(3) For the purposes of subsection (2) the circumstances in which there would be a constraint or fetter on the trustees when deciding whether to pursue continuity option 3 include where, before making the decision, the trustees would be required to—

(a) obtain the consent of employers, the scheme proprietor, members of the scheme, or any other person,

(b) consult with any person other than employers, the scheme proprietor and members of the scheme, or

(c) follow any other process

### *Valuation and benefit adjustment*

## **18 Calculation of benefits**

(1) A collective money purchase scheme must have rules about how the rate or amount of benefits provided under the scheme is to be determined.

(2) The rules must include—

(a) rules for determining the available assets of the scheme and their value,

(b) rules for determining the required amount, and

(c) rules about how the rate or amount of benefits provided under the scheme is to be adjusted from time to time, including rules about when adjustments are to take effect.

(3) In this section “the available assets of the scheme” and “the required amount” have the meaning given in section 2(2).

(4) The Secretary of State may by regulations make provision about the matters mentioned in subsections (1) and (2), including provision about the methods and assumptions to be used.

(5) Regulations under subsection (4) making provision about the determination of the required amount may, among other things, make provision about—

(a) how past or proposed adjustments to the rate or amount of benefits provided under the scheme are to be treated;

(b) assumptions to be made about future adjustments to the rate or amount of such benefits.

(6) Regulations under subsection (4) may, among other things—

(a) provide for alternative methods and assumptions;

(b) require or enable the trustees to decide which methods and assumptions are to be used;

(c) specify matters that the trustees must take into account, or principles they must follow, in making such decisions.

(7) Regulations under subsection (4)—

(a) may make provision applying in relation to rights under the scheme that have already accrued;

(b) override the rules of the scheme to the extent that the rules conflict with the regulations.

(8) Regulations under subsection (4) are subject to affirmative resolution procedure.

## **19 Advice of scheme actuary**

(1) The trustees of a collective money purchase scheme must obtain the advice of the scheme actuary before making a decision as to the methods and assumptions to be used in determining the matters mentioned in section 18(1) and (2).

(2) The Secretary of State may by regulations specify requirements with which the scheme actuary must comply when advising the trustees in accordance with subsection (1).

(3) Regulations under subsection (2) may, among other things, require the scheme actuary to have regard to guidance that is prepared, and from time to time revised, by a person specified or described in the regulations.

(4) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to take all reasonable steps to comply with subsection (1).

(5) The first regulations under subsection (2) are subject to affirmative resolution procedure.

(6) Subsequent regulations under subsection (2) are subject to negative resolution procedure.

## **20 Actuarial valuations**

(1) The trustees of a collective money purchase scheme must obtain actuarial valuations in accordance with this section and regulations under subsection (5).

(2) In this Part “actuarial valuation” means a report prepared and signed by the scheme actuary setting out—

(a) the available assets of the scheme and their value;

(b) the required amount;

(c) whether an adjustment to the rate or amount of benefits provided under the scheme is required and, if so, the amount of the adjustment.

(3) In this section “the available assets of the scheme” and “the required amount” have the meaning given in section 2(2).

(4) A scheme actuary preparing an actuarial valuation in pursuance of a provision of this Part must determine the matters mentioned in subsection (2) in accordance with the scheme rules.

(5) The Secretary of State may by regulations make provision about actuarial valuations, including—

- (a) provision about when actuarial valuations must be prepared;
- (b) provision about the date by reference to which a determination must be made;
- (c) provision about information and statements that an actuarial valuation must contain;
- (d) provision requiring the trustees to obtain an actuarial valuation from the scheme actuary within a period specified or described in the regulations;
- (e) provision requiring the trustees to send an actuarial valuation received by them to the Pensions Regulator within a period specified or described in the regulations.

(6) In a case that is not the subject of regulations under subsection (5)(a), the trustees must obtain—

- (a) an actuarial valuation in which the date by reference to which the available assets of the scheme are determined (“the effective date”) falls within the period of one year beginning with the day on which the scheme was established, 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.

(7) In a case that is not the subject of regulations under subsection (5)(b), the required amount must be determined by reference to the effective date.

(8) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to take all reasonable steps to comply with this section.

(9) Nothing in this section affects a power or duty of the trustees of a collective money purchase scheme to obtain actuarial valuations on other occasions.

(10) The first regulations under subsection (5) are subject to affirmative resolution procedure.

(11) Subsequent regulations under subsection (5) are subject to negative resolution procedure.

## **21 Certificate that actuarial valuation prepared in accordance with scheme rules**

A scheme actuary who prepares an actuarial valuation in pursuance of a provision of this Part must certify that the matters mentioned in section 20(2) have been determined in accordance with the scheme rules.

## **22 Benefits adjustments**

(1) This section applies where an adjustment to the rate or amount of benefits provided under a collective money purchase scheme is required in accordance with the scheme rules.

(2) The trustees must as soon as is reasonably practicable report in writing to the Pensions Regulator if the adjustment—

- (a) is not made in accordance with the most recent actuarial valuation, or
- (b) does not take effect in accordance with the scheme rules.

(3) A report under subsection (2) must—

- (a) explain why the adjustment was not made in accordance with the most recent actuarial valuation or (as the case may be) does not take effect in accordance with the scheme rules;
- (b) contain such other information as the Secretary of State may specify in regulations.

(4) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to take all reasonable steps to comply with this section.

(5) Regulations under subsection (3)(b) are subject to negative resolution procedure.

## **23 Powers of the Pensions Regulator**

(1) The powers conferred by this section are exercisable where it appears to the Pensions Regulator (as a result of a report made to it or otherwise) that the trustees of a collective money purchase scheme have without good reason—

- (a) failed to comply with a requirement imposed by or under this Part to obtain an actuarial valuation, or

(b) failed to secure that any adjustment to the rate or amount of benefits provided under the scheme which is required in accordance with the scheme rules—

(i) is made in accordance with the most recent actuarial valuation, and

(ii) takes effect in accordance with the scheme rules.

(2) The Pensions Regulator may direct the trustees—

(a) to obtain an actuarial valuation;

(b) to take such other steps as the Pensions Regulator considers appropriate to remedy or mitigate the failure.

(3) A direction under subsection (2)(a) must—

(a) specify the period within which the valuation is to be obtained;

(b) specify the date by reference to which the matters to be set out in the actuarial valuation are to be determined;

(c) contain such other information as the Secretary of State may specify in regulations.

(4) In exercising a power conferred by this section, the Pensions Regulator must comply with any requirements specified in regulations made by the Secretary of State.

(5) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to take all reasonable steps to comply with a direction under this section.

(6) Regulations under this section are subject to negative resolution procedure.

(7) The powers conferred by this section are in addition to any powers exercisable by the Pensions Regulator under any other enactment.

### *Members' rights*

## **24 Rules about modifying schemes**

(1) The Pensions Act 1995 is amended as follows.

(2) In section 67 (the subsisting rights provisions)—

(a) after subsection (1) insert—

“(1A) Any exercise of such a power to make a prohibited modification is void.”;

(b) in subsection (2)(a)(i), after “if the modification is a protected modification,” insert “ or the scheme is a collective money purchase scheme within the meaning of Part 1 of the Pension Schemes Act 2021, ”;

(c) in subsection (2)(a)(ii), for “if it is not” substitute “ if sub-paragraph (i) does not apply ”;

(d) in subsection (3) omit paragraph (b) and the “or” before it;

(e) after subsection (3) insert—

“(3A) Regulations may provide for cases in which the subsisting rights provisions do not apply.”

(3) In section 67A (the subsisting rights provisions: interpretation), in subsection (1), before “ “regulated modification”” insert—

““prohibited modification””.

(4) After subsection (1) of that section insert—

“(1A)“Prohibited modification” means a modification of an occupational pension scheme which on taking effect would or might result in any subsisting right of—

(a) a member of the scheme, or

(b) a survivor of a member of the scheme,

which is not a right or entitlement to money purchase benefits becoming, or being replaced with, a right or entitlement to collective money purchase benefits under the scheme rules.”

(5) In subsection (3) of that section—

(a) after “a modification” insert “ , other than a prohibited modification, ”;

(b) for paragraph (a) substitute—

“(a) on taking effect would or might result in a relevant transformation of any subsisting right of a member of the scheme or a survivor of a member of the scheme (see subsection (3A)),”;

(c) in paragraph (b), after “rules” insert “ , other than a pension that is a collective money purchase benefit ”;

(d) omit the words following paragraph (c).

(6) After subsection (3) of that section insert—

“(3A) For the purposes of subsection (3)(a), there is a relevant transformation of a subsisting right where—

(a) a subsisting right that is not a right or entitlement to money purchase benefits becomes, or is replaced with, a right or entitlement to money purchase benefits under the scheme rules,

(b) a subsisting right that is a right or entitlement to money purchase benefits other than collective money purchase benefits becomes, or is replaced with, a right or entitlement to collective money purchase benefits under the scheme rules, or

(c) a subsisting right that is a right or entitlement to collective money purchase benefits becomes, or is replaced with, a right or entitlement to money purchase benefits other than collective money purchase benefits under the scheme rules.

(3B) For the purposes of subsection (3A), the reference in the definition of “money purchase benefits” in section 181(1) of the Pension Schemes Act 1993 to the widow, widower or surviving civil partner of a member of an occupational pension scheme is to be read as including any other survivor of the member.”

(7) In subsection (4) of that section, after “a modification” insert “, other than a prohibited modification, ”.

(8) In subsection (9) of that section—

(a) in paragraph (a), after sub-paragraph (xiii) insert—

“(xiv) regulations made under section 18(4) of or paragraph 1(6) of Schedule 2 to the Pension Schemes Act 2021;

(xv) sections 34, 39, 41, 42 and 45 of the Pension Schemes Act 2021;”;

(b) in paragraph (b), after sub-paragraph (xi) insert—

“(xii) sections 18(7)(b), 34(5), 39(6), 41(6), 42(2) and 45(5) of and paragraph 1(7) of Schedule 2 to the Pension Schemes Act 2021.”

## 25 Transfer rights

(1) Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 (transfer rights: general) is amended as follows.

(2) In section 93 (scope of Chapter 1)—

(a) in subsection (7) (crystallisation events), in paragraph (b), after “money purchase benefits” insert “ other than collective money purchase benefits ”;

(b) after subsection (10) insert—

“(10A) 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 Pension Schemes Act 2021 (see section 1(2)(b) of that Act) is to be treated as a separate scheme for the purposes of this Chapter.”

(3) In section 97 (calculation of cash equivalents), after subsection (3) insert—

“(3ZA) Where, in the case of an application from a member under section 95 that relates to money purchase benefits that are collective money purchase benefits, regulations under section 99(2)(c) provide for a period longer than 6 months, subsection (3)(b) is to be read as if the reference to 6 months were a reference to that longer period.”

(4) In section 99 (trustees' duties after exercise of option), in subsection (2) (period in which to carry out what the member requires)—

(a) omit the “and” at the end of paragraph (a);

(b) in paragraph (b), after “money purchase benefits” insert “ other than collective money purchase benefits ”;

(c) at the end of paragraph (b) insert “, and

(c) in the case of an application which relates to money purchase benefits that are collective money purchase benefits, within 6 months beginning with the date of the application or such longer period beginning with that date as may be prescribed.”

(5) After section 99 insert—

### **“99A Trustees' further duties: collective money purchase benefits**

(1) If the trustees receive an application under section 95 relating to money purchase benefits that are collective money purchase benefits—

(a) they must give the member notice in writing of the cash equivalent that relates to those benefits, and

(b) they must not without the written consent of the member enter into an agreement with a third party to use the member's cash equivalent in a way specified in section 95(2) before the end of the period mentioned in subsection (2).

(2) The period referred to in subsection (1)(b) is—

(a) the period of 3 weeks beginning with the day after the day on which the notice is given, or

(b) such other period as may be specified in regulations.

(3) Any action taken in contravention of subsection (1)(b) is void.”

(6) In section 100B (meaning of “scheme rules”: occupational pension schemes), in subsection (2)—

(a) in paragraph (a), at the end insert—

“(xv) regulations made under section 18(4) of or paragraph 1(6) of Schedule 2 to the Pension Schemes Act 2021;

(xvi) sections 34, 39, 41, 42 and 45 of the Pension Schemes Act 2021;”;

(b) in paragraph (b), at the end insert—

“(xii) sections 18(7)(b), 34(5), 39(6), 41(6), 42(2) and 45(5) of and paragraph 1(7) of Schedule 2 to the Pension Schemes Act 2021.”

### *Ongoing supervision*

## **26 List of authorised schemes**

(1) The Pensions Regulator must maintain and publish a list of authorised collective money purchase schemes.

(2) The list—

(a) must identify each authorised collective money purchase scheme by name, and

(b) may include any other information that the Pensions Regulator considers appropriate.

## **26A Unconnected multiple employer schemes: requirement to submit annual accounts**

(1) The trustees of an authorised unconnected multiple employer scheme must send the scheme's accounts to the Pensions Regulator.

(2) The accounts must be sent to the Regulator no later than two months after they are obtained by the trustees.

(3) The scheme proprietor of an authorised unconnected multiple employer scheme must send to the Pensions Regulator—

(a) its accounts prepared and audited in accordance with the requirements of Parts 15 and 16 of the Companies Act 2006; and

(b) if the scheme proprietor is partly or wholly funded by an undertaking (“relevant undertaking”), the accounts of that undertaking, prepared and audited in accordance with the requirements of Parts 15 and 16 of the Companies Act 2006.

(4) If Parts 15 and 16 of the Companies Act 2006 do not otherwise apply to a scheme proprietor or to a relevant undertaking, the references to the requirements of those Parts in subsection (3) are to those requirements with any modifications necessary to take account of the nature and structure of the scheme proprietor or relevant undertaking.

(5) The accounts of the scheme proprietor and any relevant undertaking must be sent to the Regulator—

(a) no later than nine months after the end of the financial year to which they relate, or

(b) if an item 4A or 7A triggering event occurs in relation to the scheme (see section 31) and the Pensions Regulator gives notice to the scheme proprietor requiring that accounts be sent early, within such shorter period after the end of the financial year to which they relate as is specified in the notice.

(6) In subsection (5) “financial year” in relation to a scheme proprietor has the meaning given by section 390 of the Companies Act 2006.

(7) Section 10 of the Pensions Act 1995(a) (civil penalties) applies to a person who fails to comply with a requirement imposed by or under this section.

## **27 Requirement to submit supervisory return**

(1) The Pensions Regulator may by notice require the trustees of a collective money purchase scheme to submit a supervisory return.

(2) The Secretary of State may make regulations setting out the information that the Pensions Regulator may require in a supervisory return.

(3) The notice must specify—

(a) the information required to be included in the return,

(b) the manner and form in which the return must be submitted, and

(c) the period (of at least 28 days) within which the return must be submitted.

(4) The trustees of a collective money purchase scheme may not be required to submit a supervisory return more than once in any 12 month period.

(5) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to submit a supervisory return when required to do so.

(6) Regulations under subsection (2) are subject to negative resolution procedure.

## **28 Duty to notify the Pensions Regulator of significant events**

(1) Where a person mentioned in subsection (2) becomes aware of the fact that a significant event has occurred in relation to an authorised collective money purchase scheme, the person must (subject to subsections (6) and (7)) give notice of that fact, in writing, to the Pensions Regulator as soon as reasonably practicable.

(2) The persons are—

(a) a trustee of the scheme;

(b) an employer in relation to the scheme;

(ba) where the scheme is an unconnected multiple employer scheme—

(i) the scheme proprietor;

(ii) a person who promotes or markets the scheme;

(iii) a chief financial officer of the scheme;

(c) a person who (alone or with others) has power to appoint or remove a trustee;

(d) a person who (alone or with others) has power to vary the provisions of the scheme;

(e) a person who provides legal, financial or actuarial advice in relation to the scheme;

(f) a person who manages the scheme administration services;

(g) a person acting in a capacity specified in regulations made by the Secretary of State.

(3) The Secretary of State must make regulations setting out the events that constitute significant events for the purposes of this section.

(4) The Secretary of State may by regulations specify further information that is to be provided by a person required to give notice under this section.

(5) Except as provided by subsections (6) and (7), the disclosure of information under this section does not breach—

(a) any obligation of confidence owed by the person making the disclosure, or

(b) any other restriction on the disclosure of information (however imposed).

(6) This section does not require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure of information would do so, take into account the duty imposed by this section).

(7) A person is not required by this section to disclose anything in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

(8) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by or under this section.

(9) The first regulations under subsection (3) are subject to affirmative resolution procedure.

(10) Subsequent regulations under subsection (3), and regulations under subsection (2)(g) or (4), are subject to negative resolution procedure.

## 29 Risk notices

(1) The Pensions Regulator may give a risk notice to the trustees of a collective money purchase scheme if the Regulator considers that—

- (a) there is an issue of concern in relation to the scheme, and
- (b) the scheme will breach the authorisation criteria, or is likely to breach them, if the issue is not resolved.

(1A) Where the scheme is an unconnected multiple employer scheme the Pensions Regulator may give a risk notice to the scheme proprietor if the Regulator considers that—

- (a) there is an issue of concern in relation to the scheme, and
- (b) the scheme will breach the authorisation criteria, or is likely to breach them, if the issue is not resolved.

(2) A risk notice is a notice that requires the trustees of the scheme or (as the case may be) the scheme proprietor to submit to the Pensions Regulator a plan (a “resolution plan”) setting out proposals for resolving the issue of concern.

(3) A risk notice must—

- (a) identify the issue of concern;
- (b) specify the date by which the resolution plan is to be submitted.

(4) If the Pensions Regulator is not satisfied that the proposals in a resolution plan, or where risk notices relating to the same issue of concern have been issued to the trustees of the scheme and the scheme proprietor, in resolution plans of the trustees and the scheme proprietor together, are likely to be adequate to resolve the issue of concern, the Regulator may give a further notice to the trustees or the scheme proprietor requiring them to submit a revised plan by a date specified in the notice.

(5) The trustees or (as the case may be) the scheme proprietor must implement the proposals in a resolution plan if the Pensions Regulator—

- (a) is satisfied that the proposals (whether alone or together with the proposals in another resolution plan relating to the same issue of concern) are likely to be adequate to resolve the issue of concern, and
- (b) notifies the trustees or the scheme proprietor accordingly.

(6) The Pensions Regulator may direct the trustees or the scheme proprietor to comply with the requirement imposed by subsection (5).

(7) Where the trustees or the scheme proprietor are required by subsection (5) to implement the proposals in a resolution plan, the trustees or (as the case may be) the scheme proprietor must—

- (a) submit to the Pensions Regulator, before the end of a period specified in regulations made by the Secretary of State, a report setting out what progress they are making in implementing the proposals (a “progress report”);
- (b) submit further progress reports to the Pensions Regulator at intervals specified by the Pensions Regulator.

(8) Resolution plans and progress reports must be provided in the manner and form specified by the Pensions Regulator.

(9) A reference to a resolution plan in subsections (4) to (8) includes a reference to a resolution plan as revised under subsection (4).

(10) The Secretary of State may by regulations—

- (a) specify information that a risk notice must contain;
- (b) provide that the date referred to in subsection (3)(b) or (4) must fall before the end of a period specified in the regulations.

(11) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee or a scheme proprietor who fails to comply with—

- (a) a notice under subsection (1), (1A) or (4),
- (b) a direction under subsection (6), or
- (c) a requirement imposed by subsection (7).

(12) Regulations under this section are subject to negative resolution procedure.

### **30 Withdrawal of authorisation**

(1) If the Pensions Regulator stops being satisfied that an authorised collective money purchase scheme meets the authorisation criteria, it may decide to withdraw the scheme's authorisation.

(2) A warning notice under the standard procedure or a determination notice under the special procedure given in relation to a decision under subsection (1) must—

- (a) explain that the issue of the notice is a triggering event (see section 31), and
- (b) include an explanation of the trustees' duties under sections 31 to 45.

- (3) On withdrawal of a scheme's authorisation, the Pensions Regulator must—
- (a) notify the trustees that the scheme is no longer authorised, and
  - (b) remove the scheme from the list of authorised collective money purchase schemes.

(4) In this Part—

“determination notice” has the meaning given in section 98(2)(a) of the Pensions Act 2004;

“special procedure” has the meaning given in section 98 of that Act;

“standard procedure” has the meaning given in section 96 of that Act;

“warning notice” has the meaning given in section 96(2)(a) of that Act.

### *Triggering events and continuity options*

#### **31 Triggering events**

(1) A triggering event occurs in relation to a collective money purchase scheme if an event within the second column of the triggering events table occurs in relation to it, subject to subsection (2).

(2) An event within any of items 4 to ~~9~~ 10 of the triggering events table is not a triggering event in relation to a collective money purchase scheme if it occurs within an existing triggering event period for the scheme (see section 32).

(3) A triggering event occurs on the date specified in relation to the event in the third column of the triggering events table.

(4) For the purposes of this Part “the triggering events table” is—

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<i><b>Item</b></i>	<i><b>Triggering event</b></i>	<i><b>Date event occurs</b></i>
1.	The Pensions Regulator issues a warning notice under the standard procedure in respect of a decision to withdraw the scheme's authorisation.	The date on which the notice is issued.
2.	The Pensions Regulator issues a determination notice under the special procedure in respect of a decision to withdraw the scheme's authorisation.	The date on which the notice is issued.

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3.	The Pensions Regulator gives a notification under section 7(3) (scheme not authorised).	The date on which the notification is given.
4.	Where the scheme is a single or connected employer scheme, an insolvency event occurs in relation to an employer or a relevant former employer.	The date on which the insolvency event occurs.
4A.	Where the scheme is an unconnected multiple employer scheme, an insolvency event occurs in relation to the scheme proprietor	The date on which the insolvency event occurs
5.	Where the scheme is a single or connected employer scheme, an employer or a relevant former employer becomes unlikely to continue as a going concern, where the employer or relevant former employer is a person or body of a kind that meets the requirements prescribed under section 129(1)(b) of the Pensions Act 2004.	The earlier of— (a) the date on which the employer or relevant former employer notifies the Pensions Regulator of that fact, and (b) the date on which the trustees become aware of that fact.
6.	A person who has power to do so under the provisions of the scheme decides that the scheme should be wound up.	The date of the decision.
7.	An event occurs that is required or permitted by the provisions of the scheme to result in the winding up of the scheme.	The date on which the event occurs.
7A.	Where the scheme is an unconnected multiple employer scheme, the scheme proprietor decides to end the relationship or arrangement with the scheme by virtue of which it is the scheme proprietor	The date of the decision.
7B.	Where the scheme is an unconnected multiple employer scheme, the scheme proprietor ends 7B.	The earlier of— (a) the date on which the scheme proprietor

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the relationship or arrangement with the scheme by virtue of which it is the scheme proprietor.	notifies the Pensions Regulator of that fact, and (b) the date on which the trustees become aware of that fact.
8. A person who has power to do so under the provisions of the scheme decides that the scheme should become a closed scheme.	The date of the decision.
9. An event occurs that is required or permitted by the provisions of the scheme to result in the scheme becoming a closed scheme.	The date on which the event occurs.
10. Where the scheme is an unconnected multiple employer scheme, the trustees decide that the scheme is at risk of failure and so it is necessary for one of the continuity options to be pursued (see section 34).	The date of the decision.

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(4A) An unconnected multiple employer scheme is to be taken to permit the trustees of the scheme to make the decision referred to in item 10 of the table, to the extent that it would not otherwise do so.

(5) In this Part—

“item 1 triggering event” means an event falling within item 1 of the triggering events table (and similar references using other item numbers are to be read accordingly);

“relevant former employer”, in relation to a **single or connected employer scheme** ~~collective money purchase scheme~~, means a person who has ceased to be an employer in relation to the scheme but who—

(a) is subject to an actual or contingent obligation to contribute financially to the scheme, whether by making contributions towards the costs of running the scheme or otherwise, or

(b) has power to take a decision about the operation of the scheme, either alone or with other persons who are or have been employers in relation to the scheme.

(6) In this section “closed”, in relation to a collective money purchase scheme, means closed to new contributions or new members (or both).

### **32 Triggering event periods**

(1) For the purposes of this Part, a “triggering event period” for a collective money purchase scheme is a period—

(a) starting with the date on which a triggering event occurs in relation to the scheme, and

(b) ending with the earliest of the dates given by subsection (2).

(2) The dates are—

(a) the date on which the trustees receive from the Pensions Regulator—

(i) notification under section 37(4) that the Regulator is satisfied that the triggering event has been resolved, or

(ii) notification under section 38(4) that the Regulator is satisfied that preparations for conversion to a closed scheme are complete and that the conversion will resolve the relevant events;

(b) the date on which the scheme is wound up;

(c) in the case of an item 1 or 2 triggering event (notice in respect of a decision to withdraw authorisation), the date on which it becomes clear that authorisation is not to be withdrawn.

(3) For the purposes of subsection (2)(c), it becomes clear that authorisation is not to be withdrawn—

(a) in the circumstances set out in relation to the event in the second column of the table in subsection (4), and

(b) on the date given in relation to those circumstances in the third column of that table.

(4) The table is—

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<b><i>Triggering event</i></b>	<b><i>Circumstances</i></b>	<b><i>Date</i></b>
Item 1 (issue of warning notice under the standard procedure)	1The Pensions Regulator makes a determination not to withdraw the scheme's authorisation, and 2there is no referral of the determination to the Tribunal within the time period allowed for doing so.	The date of the Pensions Regulator's determination.
Item 2 (issue of determination notice under the special procedure)	1On a review under section 99 of the Pensions Act 2004, the Pensions Regulator makes a determination that the scheme's authorisation should not be withdrawn, and 2there is no referral of the determination to the Tribunal within the time period allowed for doing so.	The date of the Pensions Regulator's determination.
Item 1 or 2	1On a referral to the Tribunal of a determination by the Pensions Regulator, the Tribunal makes a determination the effect of which is that the scheme's authorisation should not be withdrawn, and 2either— (a)no appeal is brought against the Tribunal's determination within the time period allowed for doing so, or (b)an appeal is brought within that time period but is later withdrawn.	The date of the Tribunal's determination.
Item 1 or 2	The effect of an appeal against a determination by the Tribunal is that the scheme's authorisation should not be withdrawn.	The date on which the appeal is finally disposed of.

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(5) In this section “the Tribunal” has the meaning given in—

(a) section 96(7) of the Pensions Act 2004, in a case where the standard procedure applies;

(b) section 99(13) of that Act, in a case where the special procedure applies.

### 33 Notification of triggering events

(1) If a triggering event listed in the first column of the table in subsection (2) occurs in relation to a collective money purchase scheme, each person specified in relation to the event in the second column of that table must (subject to subsections (12) and (13)) notify the Pensions Regulator of the occurrence of the event.

(2) The table is—

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<b><i>Event</i></b>	<b><i>Specified person</i></b>
Item 4 triggering event (an insolvency event occurs in relation to an employer or a relevant former employer)	The employer or relevant former employer.  A trustee who is aware of the event.
Item 4A triggering event (an insolvency event occurs in relation to the scheme proprietor)	The scheme proprietor  A trustee who is aware of the event
Item 5 triggering event (an employer or a relevant former employer becomes unlikely to continue as a going concern, where the employer or relevant former employer is a person or body of a kind that meets the requirements prescribed under section 129(1)(b) of the Pensions Act 2004)	The employer or relevant former employer.  A trustee who is aware of the event.
Item 6 triggering event (a person decides that the scheme should be wound up)	The person who made the decision.

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Item 7 triggering event (an event occurs that is required or permitted by the provisions of the scheme to result in the winding up of the scheme)

A trustee who is aware of the event (if not the person who made the decision).

Where the scheme is a single or connected employer scheme, an employer who is aware of the event (if not the person who made the decision).

Where the scheme is an unconnected multiple employer scheme, the scheme proprietor (if not the person who made the decision) if they are aware of the event.

Item 7A triggering event (scheme proprietor decides to end relationship or arrangement)

A trustee who is aware of the event.

Where the scheme is a single or connected employer scheme, an employer who is aware of the event.

Where the scheme is an unconnected multiple employer scheme, the scheme proprietor if they are aware of the event.

Item 7B triggering event (scheme proprietor ends relationship or arrangement)

The scheme proprietor.

A trustee who is aware of the event.

The scheme proprietor.

A trustee who is aware of the event.

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Item 8 triggering event (a person decides that the scheme should become a closed scheme)

The person who made the decision.

A trustee who is aware of the event (if not the person who made the decision).

Where the scheme is a single or connected employer scheme, an employer who is aware of the event (if not the person who made the decision).

Where the scheme is an unconnected multiple employer scheme, the scheme proprietor (if not the person who made the decision) if they are aware of the event.

Item 9 triggering event (an event occurs that is required or permitted by the provisions of the scheme to result in the scheme becoming a closed scheme)

A trustee who is aware of the event.

Where the scheme is a single or connected employer scheme, an employer who is aware of the event.

Where the scheme is an unconnected multiple employer scheme, the scheme proprietor if they are aware of the event.

Item 10 triggering event (trustees decide that it is necessary to pursue continuity option)

The trustees.

The scheme proprietor if they are aware of the event.

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(3) If a triggering event occurs in relation to a single or connected employer scheme ~~collective money purchase scheme~~, a trustee who is aware of the event must

(subject to subsections (5), (6), (12) and (13)) give the required notification to each employer or relevant former employer.

(3A) If a triggering event occurs in relation to an unconnected multiple employer scheme, a trustee who is aware of the event must (subject to subsections (5A), (6), (12) and (13)) give the required notification to each employer and the scheme proprietor.

(4) In this section “the required notification”, in relation to a triggering event, means notification of—

(a) the occurrence of the event, and

(b) such other matters relating to the event as may be specified in regulations made by the Secretary of State.

(5) In the case of an item 4 or 5 triggering event, subsection (4)(a) does not apply as regards notification of the employer or relevant former employer in respect of whom the event occurs.

(5A) In the case of an item 4A, 7A or 7B triggering event, subsection (4)(a) does not apply as regards notification of the scheme proprietor.

(6) In the case of an item 6 or 8 triggering event, subsection (4)(a) does not apply as regards notification of the person who decided that the scheme—

(a) should be wound up, or

(b) (as the case may be) should become a closed scheme.

(7) If an item 4 or 5 triggering event occurs in relation to a **single or connected employer scheme** ~~collective money purchase scheme~~, each employer or relevant former employer in respect of whom the event occurs must (subject to subsections (12) and (13)) give the required notification to the trustees.

(7A) If an item 4A triggering event occurs in relation to an unconnected multiple employer scheme, the scheme proprietor must (subject to subsections (12) and (13)) give the required notification to the trustees.

(8) If an item 6 or 8 triggering event occurs in relation to a collective money purchase scheme, the person who decided that the scheme—

(a) should be wound up, or

(b) (as the case may be) should become a closed scheme,

must (if that person is not the trustees, and subject to subsections (12) and (13)) give the required notification to the trustees.

(9) If an item 7 or 9 triggering event occurs in relation to a **single or connected employer scheme** ~~collective money purchase scheme~~, each employer or relevant former employer who is aware of the event must (subject to subsections (12) and (13)) give the required notification to the trustees.

**(9A) If an item 7, 7A, 7B or 9 triggering event occurs in relation to an unconnected multiple employer scheme, the scheme proprietor, if they are aware of the event, must (subject to subsections (12) and (13)) give the required notification to the trustees.**

(10) A notification under this section must be given before the end of the period specified in regulations made by the Secretary of State.

(11) Except as provided by subsections (12) and (13), the disclosure of information under this section does not breach—

- (a) any obligation of confidence owed by the person making the disclosure, or
- (b) any other restriction on the disclosure of information (however imposed).

(12) This section does not require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure of information would do so, take into account the duty imposed by this section).

(13) A person is not required by this section to disclose anything in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

(14) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.

(15) Regulations under this section are subject to negative resolution procedure.

### **34 Continuity options**

(1) If a triggering event occurs in relation to a collective money purchase scheme, the trustees must pursue one of the continuity options.

(2) The continuity options are—

- (a) continuity option 1 (discharge of liabilities and winding up) (see section 36);
- (b) continuity option 2 (resolving triggering event) (see section 37);
- (c) continuity option 3 (conversion to closed scheme) (see section 38).

- (3) The trustees must pursue continuity option 1—
- (a) if the triggering event is an item 1 or 2 triggering event and the decision to withdraw authorisation has become final (see section 35), or
  - (b) if the triggering event is an item 3 triggering event.
- (4) In those cases, the trustees must pursue continuity option 1 even if—
- (a) the item 1, 2 or 3 triggering event occurs within the triggering event period of an earlier triggering event, and
  - (b) the trustees have already decided to pursue continuity option 2 or 3 in respect of the earlier triggering event.
- (5) The trustees may pursue continuity option 3 only if (or to the extent that) the provisions of the scheme allow them to do so.

Subject to that, this section overrides any provision of the collective money purchase scheme to the extent that there is a conflict.

- (6) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.

### **35 When a decision to withdraw authorisation becomes final**

- (1) For the purposes of this Part, in relation to an item 1 or 2 triggering event, a decision to withdraw authorisation becomes final—
- (a) in the circumstances set out in relation to the event in the second column of the table in subsection (2), and
  - (b) on the date given in relation to those circumstances in the third column of that table.

- (2) The table is—

<b><i>Triggering event</i></b>	<b><i>Circumstances</i></b>	<b><i>Date</i></b>
Item 1 (issue of warning notice under the standard procedure)	<p>1The Pensions Regulator makes a determination to withdraw the scheme's authorisation, and</p> <p>2there is no referral of the determination to the Tribunal within the time period allowed for doing so.</p>	The date of the Pensions Regulator's determination.

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Item 2 (issue of determination notice under the special procedure)	<p>1On a review under section 99 of the Pensions Act 2004, the Pensions Regulator makes a determination that the scheme's authorisation should be withdrawn, and</p> <p>2there is no referral of the determination to the Tribunal within the time period allowed for doing so.</p>	The date of the Pensions Regulator's determination.
Item 1 or 2	<p>1On a referral to the Tribunal of a determination by the Pensions Regulator, the Tribunal makes a determination the effect of which is that the scheme's authorisation should be withdrawn, and</p> <p>2either—</p> <p>(a)no appeal is brought against the Tribunal's determination within the time period allowed for doing so, or</p> <p>(b)an appeal is brought within that time period but is later withdrawn.</p>	The date of the Tribunal's determination.
Item 1 or 2	The effect of an appeal against a determination by the Tribunal is that the scheme's authorisation should be withdrawn.	The date on which the appeal is finally disposed of.

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(3) In this section “the Tribunal” has the meaning given in—

- (a) section 96(7) of the Pensions Act 2004, in a case where the standard procedure applies;
- (b) section 99(13) of that Act, in a case where the special procedure applies.

### **36 Continuity option 1: discharge of liabilities and winding up**

(1) Where the trustees of a collective money purchase scheme are required, or decide, to pursue continuity option 1, they must—

- (a) quantify, in the case of each beneficiary, the amount that represents the value of the beneficiary's accrued rights to benefits under the scheme;
- (b) formulate a proposal for discharging the scheme's liability to each beneficiary in respect of those rights, in one of the ways set out in subsection (2);
- (c) notify ~~the following each employer and relevant former employer, and each beneficiary,~~ of the proposal and of such other matters as may be specified in regulations made by the Secretary of State—

- (i) each employer,
- (ii) each beneficiary, and
- (iii) where the scheme is a single or connected employer scheme, each relevant former employer.

(2) The ways of discharging the scheme's liability referred to in subsection (1)(b) are—

- (a) transferring the value of the beneficiaries' accrued rights to benefits under the scheme to a collective money purchase scheme or to a Master Trust scheme;
- (b) transferring the value of those rights, in such circumstances as may be specified in regulations made by the Secretary of State, to a pension scheme that has characteristics specified in the regulations;
- (c) securing, in such circumstances as may be specified in regulations made by the Secretary of State, the payment of benefits by such other means (an "alternative payment mechanism") as may be specified in the regulations.

(3) A proposal under subsection (1)(b) may deal with the rights of different descriptions of beneficiaries in different ways.

(4) Subsections (1)(b) and (2) have effect subject to—

- (a) Part 4ZA of the Pension Schemes Act 1993 (transfers and contribution refunds);
- (b) provision made by regulations under subsection (6).

(5) Notification under subsection (1)(c) must be given—

- (a) in the manner specified in regulations made by the Secretary of State, and
- (b) before the end of the period specified in the regulations.

(6) The Secretary of State may by regulations make provision for the purposes of enabling continuity option 1 to be given effect, which may include—

- (a) provision about how continuity option 1 is to be pursued by the trustees of a collective money purchase scheme;
- (b) provision conferring rights on beneficiaries or employers;
- (c) provision imposing duties on employers or trustees;
- (d) provision conferring power on the Pensions Regulator to direct trustees to do things permitted or required by the regulations;
- (e) provision deeming a beneficiary the value of whose accrued rights are to be transferred to a scheme that is not a collective money purchase scheme or a Master Trust scheme to have entered into an agreement with a person of a description specified in the regulations.

(7) Regulations under subsection (6) must include—

- (a) provision about how the quantification referred to in subsection (1)(a) is to be carried out (which may be different in relation to different descriptions of beneficiaries);
- (b) provision for securing that a person who has become a pensioner beneficiary (whether before or after the occurrence of the triggering event as a result of which the trustees are pursuing continuity option 1) receives a periodic income, at a rate or of an amount that is calculated by reference to the amount referred to in subsection (1)(a), until the time when the proposal under subsection (1)(b) is implemented or some other specified time;
- (c) provision about how rights conferred by the regulations may be exercised (including the time periods within which they may be exercised);
- (d) provision specifying requirements (which may include approval or authorisation by the Pensions Regulator in accordance with the regulations) to be met in the case of a pension scheme, or an alternative payment mechanism, by means of which it is proposed to discharge the collective money purchase scheme's liabilities to beneficiaries in one of the ways set out in subsection (2);
- (e) provision requiring those responsible for a pension scheme by means of which it is proposed to discharge the collective money purchase scheme's liabilities to beneficiaries ("the receiving scheme") to provide the Pensions Regulator with a document setting out the level of administration charges that

applied in relation to members of the receiving scheme, in the manner and as at the date specified or described in the regulations;

(f) provision imposing duties on the trustees to notify all or a specified description of employers and beneficiaries of their rights under the regulations and of members' rights under Part 4ZA of the Pension Schemes Act 1993;

(g) provision about the winding up of the collective money purchase scheme in circumstances where the scheme's liabilities to beneficiaries are discharged.

(8) In this section—

“beneficiary”, in relation to the collective money purchase scheme, means—

(a) a member of the scheme, or

(b) a person who has survived a member of the scheme and has an entitlement to benefits, or a right to future benefits, under the scheme rules in respect of the member;

“pensioner beneficiary”, in relation to the collective money purchase scheme, means a person who is entitled to the present payment of pension or other benefits under the scheme;

“specified” means specified in regulations under subsection (6).

(9) Section 10 of the Pension Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.

(10) Regulations under this section may provide for the application of section 10 of the Pensions Act 1995 to a person who fails to comply with a requirement imposed by the regulations.

(11) Regulations under subsection (2) or (6) are subject to affirmative resolution procedure.

(12) Regulations under subsection (1)(c) or (5) are subject to negative resolution procedure.

### **37 Continuity option 2: resolving triggering event**

(1) Where the trustees of a collective money purchase scheme decide to pursue continuity option 2, they must attempt to resolve the triggering event.

(2) The trustees must notify the Pensions Regulator when they consider that the triggering event has been resolved.

(3) The notification must—

(a) set out how the trustees consider that the triggering event has been resolved;

(b) be given before the end of the period specified in regulations made by the Secretary of State.

(4) After receiving the notification, the Pensions Regulator must notify the trustees as to whether it is satisfied that the triggering event has been resolved.

(5) The Pensions Regulator may not form the view that a triggering event (“the relevant event”) has been resolved unless it is satisfied that any other event within the triggering events table that has occurred in relation to the scheme since the occurrence of the relevant event has also been resolved.

(6) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to comply with a requirement imposed by this section.

(7) Regulations under subsection (3)(b) are subject to negative resolution procedure.

### **38 Continuity option 3: conversion to closed scheme**

(1) This section applies where the trustees of a collective money purchase scheme decide to pursue continuity option 3.

(2) The trustees must notify the Pensions Regulator when they consider that preparations for the conversion of the scheme into a closed scheme are complete.

(3) The Secretary of State may by regulations require notification under subsection (2) to be given before the end of a period specified in the regulations.

(4) If the Pensions Regulator is satisfied—

(a) that preparations for the conversion of the scheme into a closed scheme are complete, and

(b) that the conversion will resolve the triggering event giving rise to the decision to pursue continuity option 3, and any other event within the triggering events table that has subsequently occurred in relation to the collective money purchase scheme,

the Regulator must notify the trustees accordingly.

- (5) The conversion of the scheme into a closed scheme may be carried out only in accordance with the provisions of the scheme.
- (6) The scheme may not begin operating as a closed scheme until the trustees have received notification under subsection (4).
- (7) Where the trustees have pursued continuity option 3 they may not later reverse the closure of the scheme (either completely or to any extent).
- (8) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to comply with a requirement or restriction imposed by this section.
- (9) Regulations under subsection (3) are subject to negative resolution procedure.
- (10) In this section “closed”, in relation to a collective money purchase scheme, means closed to new contributions or new members (or both).

The reference to closure of the scheme in subsection (7) is to be read accordingly.

### **39 Implementation strategy**

(1) If a triggering event occurs in relation to a collective money purchase scheme, the trustees must—

- (a) produce a document setting out how the interests of members of the scheme are to be protected following the occurrence of the event (an “implementation strategy”), and
- (b) submit it to the Pensions Regulator for approval before the end of a period specified in regulations made by the Secretary of State.

This is subject to subsections (2)(a) and (3)(a).

(2) If an item 1, 2 or 3 triggering event occurs within the triggering event period for an earlier triggering event—

- (a) the trustees are not required to submit an implementation strategy in respect of the earlier triggering event;
- (b) any implementation strategy approved by the Pensions Regulator in respect of the earlier triggering event ceases to have effect when the later triggering event occurs.

(3) In the case of an item 1 or 2 triggering event—

- (a) the trustees are required to submit an implementation strategy only if the decision to withdraw authorisation has become final (see section 35);

(b) if it becomes clear that authorisation is not to be withdrawn, subsection (2) ceases to have effect on the date on which that becomes clear.

Subsections (3) to (5) of section 32 apply for the purposes of paragraph (b) above as they apply for the purposes of subsection (2)(c) of that section.

(4) The Pensions Regulator may direct the trustees to comply with a requirement imposed by this section.

(5) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a direction under subsection (4).

(6) This section overrides any provision of the collective money purchase scheme, to the extent that there is a conflict.

(7) Regulations under subsection (1)(b) are subject to negative resolution procedure.

#### **40 Approval of implementation strategy**

(1) The Pensions Regulator may approve an implementation strategy only if it is satisfied that the strategy is adequate.

(2) Subsections (3) to (6) apply for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that an implementation strategy for a collective money purchase scheme is adequate.

(3) An implementation strategy must include information about the levels of administration charges in relation to members of the scheme.

(4) The information must—

(a) relate to the levels of administration charges as at the date specified or described in regulations made by the Secretary of State, and

(b) be set out in the manner specified or described in the regulations.

(5) An implementation strategy must include information about the following matters—

(a) the continuity option that is to be pursued (see section 34);

(b) where continuity option 1 (discharge of liabilities and winding up) is to be pursued—

(i) the scheme or schemes to which it is proposed to transfer the value of accrued rights to benefits, or the alternative payment mechanism by which the payment of benefits is to be secured, if known;

- (ii) when the transfer is expected to take place, or (as the case may be) when the payment of benefits is expected to be secured;
- (c) where continuity option 2 (resolving the triggering event) is to be pursued, how it is proposed that the triggering event should be resolved;
- (d) where continuity option 3 (conversion to closed scheme) is to be pursued—
  - (i) the way in which, the extent to which and the time by which it is proposed to close the scheme;
  - (ii) how the scheme will continue to meet the authorisation criteria;
  - (iii) any revisions that will be needed to the viability report and the continuity strategy (see sections 13 and 17).

(6) An implementation strategy must—

- (a) include any other information specified or described in regulations made by the Secretary of State, and
- (b) be prepared in accordance with regulations made by the Secretary of State.

(7) Regulations under this section are subject to negative resolution procedure.

#### **41 Trustees' duties once implementation strategy approved**

(1) When the Pensions Regulator has notified the trustees of a collective money purchase scheme that an implementation strategy relating to the scheme is approved, the trustees must—

- (a) pursue the continuity option identified in the strategy, and
- (b) take such other steps as are identified in the strategy in order to carry it out.

(2) The Secretary of State may by regulations require the trustees of a collective money purchase scheme to make available an approved implementation strategy relating to the scheme, before the end of the period specified or described in the regulations, to employers or, **where the scheme is a single or connected employer scheme**, relevant former employers that are of a description specified in the regulations.

(3) If an item 1, 2 or 3 triggering event occurs within the triggering event period for an earlier triggering event—

(a) the trustees cease to be subject to the requirements of subsection (1) and regulations under subsection (2) in respect of an approved implementation strategy relating to the earlier triggering event, but

(b) in the case of an item 1 or 2 triggering event, if it becomes clear that authorisation is not to be withdrawn, the trustees are again subject to those requirements from the date on which that becomes clear.

Subsections (3) to (5) of section 32 apply for the purposes of paragraph (b) above as they apply for the purposes of subsection (2)(c) of that section.

(4) The Pensions Regulator may direct the trustees to comply with subsection (1), if they fail to do so.

(5) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a direction under subsection (4).

(6) To the extent that there is a conflict, this section overrides a provision of—

(a) a collective money purchase scheme, or

(b) a contract between the trustees of a collective money purchase scheme and a person providing services in relation to the scheme.

(7) Regulations under subsection (2) are subject to negative resolution procedure.

#### **42 Prohibition on winding up except in accordance with continuity option 1**

(1) A person may wind up a collective money purchase scheme only in accordance with continuity option 1 (see section 36).

(2) Subsection (1) overrides any provision of a collective money purchase scheme to the extent that there is a conflict.

(3) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with subsection (1).

#### **43 Periodic reporting requirements**

(1) During a triggering event period for a collective money purchase scheme, the trustees must submit reports to the Pensions Regulator.

(2) The first report must be submitted before the end of a period specified in regulations made by the Secretary of State.

(3) Subsequent reports must be submitted at intervals specified by the Pensions Regulator.

(4) The reports must—

- (a) report on progress in carrying out the implementation strategy,
- (b) record events or decisions of a description specified in regulations made by the Secretary of State,
- (c) contain such other information as is specified in regulations made by the Secretary of State, and
- (d) be made in the manner and form specified by the Pensions Regulator.

(5) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.

(6) Regulations under this section are subject to negative resolution procedure.

#### **44 Pause orders**

(1) This section applies during a triggering event period for a collective money purchase scheme.

(2) The Pensions Regulator may make a pause order in relation to the scheme if either of the following two conditions is met.

(3) Condition 1 is that the Pensions Regulator is satisfied that making a pause order will help the trustees to carry out the implementation strategy.

(4) Condition 2 is that the Pensions Regulator is satisfied that—

- (a) there is, or is likely to be if a pause order is not made, an immediate risk to the interests of members of the scheme or the assets of the scheme, and
- (b) it is necessary to make a pause order to protect the interests of the generality of the members of the scheme.

(5) A pause order is an order that during the period for which it has effect one or more of the following directions has effect—

- (a) a direction that no new members (or no new members of a specified description) are to be admitted to the scheme;
- (b) a direction that no further payments (or no further payments of a specified description) are to be made towards the scheme—

(i) by or on behalf of employers or, **where the scheme is a single or connected employer scheme**, relevant former employers (or employers or relevant former employers of a specified description), or

(ii) by or in respect of members (or members of a specified description);

(c) a direction that an amount (or specified amount) which—

(i) corresponds to a payment that would be due to be made towards the scheme in respect of a member but for a direction under paragraph (b), and

(ii) has been deducted from a payment of earnings in respect of an employment,

is to be repaid to the member in question by the employer;

(d) a direction that no benefits (or no benefits of a specified description) are to be paid to or in respect of members (or members of a specified description) under the scheme rules;

(e) a direction that—

(i) no transfers (or no transfers of a specified description) of or in respect of a member's rights under the scheme rules are to be made from the scheme,

(ii) no transfer payments (or no transfer payments of a specified description) in respect of a member's rights under the scheme rules are to be made from the scheme, or

(iii) no other steps (or no other steps of a specified description) are to be taken to discharge a liability of the scheme to or in respect of a member of the scheme in respect of pensions or other benefits.

(6) In subsection (5)(b)—

(a) a reference to payments does not include payments due to be made before the order takes effect, and

(b) a reference to payments towards a scheme includes payments in respect of pension credits where the person entitled to the credit is a member of the scheme.

(7) A direction under subsection (5)(e) may provide that—

(a) no transfers of or in respect of a member's rights under the scheme rules, or no such transfers of a specified description, may be made from the scheme, or

(b) no transfer payments in respect of such rights, or no such transfer payments of a specified description, may be made from the scheme,

unless the amounts paid out from the scheme in respect of the transfers or transfer payments are determined in a specified manner and the transfers or transfer payments satisfy such other conditions as may be specified.

(8) A pause order may also require the trustees of the scheme to obtain an actuarial valuation within a specified period.

(9) A pause order containing such a requirement must specify—

(a) the date by reference to which the matters to be set out in the valuation must be determined;

(b) the information and statements that the valuation must contain;

(c) any other requirements that the valuation must satisfy.

(10) Schedule 2 makes further provision about pause orders.

(11) In this section—

“earnings” has the meaning given in section 181(1) of the Pension Schemes Act 1993;

“pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11));

“specified” means specified in the pause order.

#### **45 Prohibition on increasing charges etc during triggering event period**

(1) During a triggering event period for a collective money purchase scheme, the trustees must not—

(a) impose administration charges on or in respect of members at levels above those set out in the implementation strategy,

(b) impose new administration charges on or in respect of members, or

(c) impose administration charges on or in respect of a member in consequence of the member leaving, or deciding to leave, the scheme during that period.

(2) The trustees of a receiving scheme that is a collective money purchase scheme or a Master Trust scheme must not—

(a) impose administration charges on or in respect of members at levels above those set out in the document provided to the Pensions Regulator by virtue of regulations under section 36(7)(e), or

(b) impose new administration charges on or in respect of members,

for the purposes of meeting any of the costs mentioned in subsection (4).

(3) The Secretary of State may by regulations—

(a) provide that subsection (1) or (2) does not apply in relation to administration charges specified or described in the regulations;

(b) make provision about how levels of administration charges are to be calculated for the purposes of this section.

(4) The costs referred to in subsection (2) are costs for which a receiving scheme is liable—

(a) which were incurred by the transferring scheme, or

(b) which relate directly to the transfer of the value of accrued rights to benefits under the transferring scheme.

(5) To the extent that there is a conflict, this section overrides a provision of—

(a) a collective money purchase scheme,

(b) a Master Trust scheme,

(c) a contract between the trustees of a collective money purchase scheme and a person providing services in relation to the scheme, or

(d) a Master Trust scheme contract within the meaning of section 39(1) of the Pension Schemes Act 2017 or any corresponding statutory provision.

(6) The Secretary of State may by regulations apply some or all of the provisions of this section to a receiving scheme that has characteristics specified in regulations under section 36(2)(b).

(7) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to comply with this section.

(8) In this section—

“receiving scheme” means a pension scheme that—

(a) receives a transfer from a transferring scheme of the value of accrued rights to benefits under that scheme during a triggering event period for that scheme, and

(b) was proposed by the trustees of the transferring scheme, or by employers in relation to that scheme, as a scheme to which the value of those rights should be transferred;

“transferring scheme” means a collective money purchase scheme the trustees of which, following a triggering event, are pursuing continuity option 1.

(9) Regulations under subsection (3)(a) or (6), and the first regulations under subsection (3)(b), are subject to affirmative resolution procedure.

(10) Subsequent regulations under subsection (3)(b) are subject to negative resolution procedure.

### *Publication of information*

#### **46 Publication of information**

(1) The Secretary of State may by regulations require the trustees of a collective money purchase scheme to publish information relating to the scheme that is specified or described in the regulations.

(2) Regulations under subsection (1) may, among other things—

(a) require the trustees to publish a document specified or described in the regulations;

(b) require information or a document to be made available free of charge;

(c) require information or a document to be provided to a person in a form or by means specified or described in the regulations;

(d) require or permit information specified or described in the regulations to be excluded from a document when it is published in accordance with the regulations.

(3) In complying with a requirement imposed by regulations under subsection (1) a trustee must have regard to any guidance prepared from time to time by the Secretary of State.

(4) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to take all reasonable steps to comply with a requirement imposed by regulations under this section.

(5) Regulations under subsection (1) are subject to negative resolution procedure.

### *Powers to make further provision*

#### **47 Powers to extend definition of qualifying schemes**

(1) The Secretary of State may by regulations remove the exclusion of any of the following from the definition of “qualifying scheme” in section 3—

(a) pension schemes not established solely by one or more persons to whom section 1(2)(a) (employer) of the Pension Schemes Act 1993 applied when the scheme was established;

(b) pension schemes used, or intended to be used, by two or more employers some or all of which are not connected with each other.

(2) The Secretary of State may by regulations make further provision about collective money purchase schemes that could not be qualifying schemes, or sections of qualifying schemes, but for regulations under subsection (1) (“relevant schemes”), including—

(a) provision about the authorisation of relevant schemes by the Pensions Regulator;

(b) provision about triggering events and continuity options;

(c) provision about administration charges during triggering event periods.

(3) Regulations under subsection (2) making provision about relevant schemes used, or intended to be used, by two or more employers some or all of which are not connected with each other may among other things—

(a) make provision corresponding or similar to provision made by or under Part 1 of the Pension Schemes Act 2017;

(b) disapply any provision of that Part in relation to such schemes.

(4) The provision that may be made under subsection (1) or (2) may be made by—

- (a) modifying or amending this Part;
- (b) making consequential modifications or amendments of any other enactment.

(5) Regulations under this section are subject to affirmative resolution procedure.

### *Supplementary*

#### **48 Minor and consequential amendments**

Schedule 3 makes minor and consequential amendments relating to this Part.

#### **49 Interpretation of Part 1**

(1) In this Part—

“the “accounts” of an unconnected multiple employer scheme means the accounts audited by the person appointed as auditor in relation to the scheme under section 47(1)(a) of the Pensions Act 1995 (professional advisers) (and see subsection (1A));

“administration charge” has the same meaning as in paragraph 1 of Schedule 18 to the Pensions Act 2014;

“authorisation” means authorisation under section 9 or by virtue of regulations under section 5(2) (and related expressions are to be read accordingly);

“authorisation criteria” has the meaning given in section 9(3);

“chief financial officer”, in relation to an unconnected multiple employer scheme, means a person acting in a capacity in which that person has significant influence over either or both of the following—

(a) the management and use of financial resources of the scheme;

(b) business decisions relating to the commercial activities of the scheme;

“Code” means a code of practice issued by the Pensions Regulator under section 90 of the Pensions Act 2004;

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“employer”, in relation to an occupational pension scheme, means a person who employs or engages persons who are, or are entitled to become, members of the scheme;

“enactment” includes an enactment comprised in subordinate legislation;

“implementation strategy” has the meaning given in section 39;

“insolvency event” has the meaning given in section 121 of the Pensions Act 2004;

“Master Trust scheme” means a Master Trust scheme within the meaning of the Pension Schemes Act 2017 or any corresponding statutory provision;

“member” has the meaning given in section 124(1) of the Pensions Act 1995 (read with regulations made under section 125(4) of that Act);

“occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993 (see section 1(1) of that Act);

“pension scheme” has the meaning given in section 1(5) of the Pension Schemes Act 1993;

“the scheme actuary”, in relation to a pension scheme, means the person appointed under section 47(1)(b) of the Pensions Act 1995 (professional advisers) in relation to the scheme;

“the scheme proprietor”, in relation to an unconnected multiple employer scheme, has the meaning given in section 14B(3);

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

“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.));

“subordinate legislation” has the meaning given in section 21(1) of the Interpretation Act 1978;

“triggering event” has the meaning given in section 31;

“undertaking” has the meaning given in section 1161 of the Companies Act 2006.

(1A) In relation to an unconnected multiple employer scheme which is a section of a qualifying scheme, references in this Part to the scheme’s accounts are to be read as references to the accounts of the qualifying scheme as a whole.

(2) For the purposes of this Part, an employer (“A”) is connected with another employer (“B”)—

(a) where A is, or has been, a group undertaking in relation to B within the meaning of section 1161(5) of the Companies Act 2006, or

(b) in circumstances specified in regulations made by the Secretary of State.

(3) This Part applies to a qualifying scheme—

(a) which provides both qualifying benefits and other benefits, and

(b) for which there is no power to wind up the scheme to the extent only that it provides qualifying benefits,

as if references to winding up the scheme, or to the scheme being wound up, were to ceasing to operate the scheme, or the scheme ceasing to operate, to the extent that it provides qualifying benefits.

(4) Regulations made by the Secretary of State may make provision to the effect that, for the purposes of any specified provisions of this Part, a reference in this Part to a collective money purchase scheme includes a scheme that—

(a) is in the process of being wound up, and

(b) was a collective money purchase scheme immediately before the beginning of that process.

“Specified” here means specified in the regulations.

(5) Regulations under subsection (2) or (4) are subject to affirmative resolution procedure.

## 50 Index of defined expressions

The Table below lists provisions that define or otherwise explain terms defined for this Part of this Act.

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accounts (of an unconnected multiple employer scheme)	section 49
actuarial valuation	section 20(2)
administration charge	section 49
affirmative resolution procedure	section 51
authorisation (and related expressions)	section 49

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authorisation criteria	section 49
chief financial officer (in relation to an unconnected multiple employer scheme)	section 49
Code	section 49
collective money purchase benefit	section 1
collective money purchase scheme	section 1
connected (in relation to employers)	section 49
the data protection legislation	section 49
determination notice	section 30(4)
employer	section 49
enactment	section 49
implementation strategy	section 49
insolvency event	section 49
item 1 triggering event (and similar references)	section 31(5)
Master Trust scheme	section 49
member	section 49
negative resolution procedure	section 51
occupational pension scheme	section 49
pension scheme	section 49
promotion or marketing (and similar references)	section 9(7)
qualifying benefit	section 2
qualifying scheme	sections 3 and 4
rectification (in relation to promotion or marketing that is unclear and misleading)	section 9(7)

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relevant former employer (in relation to a single or connected employer scheme)	section 31(5)
the scheme actuary	section 49
the scheme proprietor (in relation to an unconnected multiple employer scheme)	section 49
scheme rules	section 49
section (of a pension scheme)	regulations under section 5(1)
single or connected employer scheme	section 1(3)
special procedure	section 30(4)
standard procedure	section 30(4)
statutory provision	section 49
subordinate legislation	section 49
triggering event	section 49
triggering event period	section 32
triggering events table	section 31(4)
unconnected multiple employer scheme	section 1(3)
undertaking	section 49
warning notice	section 30(4)

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## 51 Regulations

(1) Regulations under this Part are to be made by statutory instrument.

(2) A power to make regulations under this Part may be used—

(a) to make different provision for different purposes;

(b) to make provision in relation to all or only some of the purposes for which it may be used.

(3) Regulations under this Part may—

- (a) confer a discretion on a person;
- (b) make consequential, supplementary or incidental provision;
- (c) make transitional, transitory or saving provision.

(4) Where regulations under this Part are subject to “negative resolution procedure”, the statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Where regulations under this Part are subject to “affirmative resolution procedure”, the regulations must not be made unless a draft of the statutory instrument containing them has been laid before Parliament and approved by a resolution of each House of Parliament.

(6) Any provision that may be made by regulations under this Part subject to negative resolution procedure may be made by regulations subject to affirmative resolution procedure.

[Unamended provisions omitted]

SCHEDULE 1A  
BUSINESS STRATEGY

PART 1

INFORMATION TO BE TAKEN INTO ACCOUNT

- 1 The scheme's latest accounts (if any).
- 2 The statement of investment principles (if any) prepared by the trustees of the scheme in accordance with section 35 of the Pensions Act 1995 (investment principles).
- 3 The latest accounts (if any) of the scheme proprietor, and of any undertaking that partly or wholly funds the scheme proprietor, provided to the Pensions Regulator under section 8 or section 26A.

PART 2

MATTERS TO BE TAKEN INTO ACCOUNT

- 4 The structure of the scheme and its target market, including any plans to acquire or merge with other schemes.
- 5 The objectives for the scheme and the strategy for achieving them, including delivery milestones.
- 6 The robustness and prudence of assumptions in the scheme's business plan (see section 14A) about membership, contributions, income and costs.
- 7 The planned expenditure of the scheme, the purpose of the expenditure, and how it will be funded.
- 8 The terms, security and affordability of loans and other funding provided to the scheme, and the identity of each lender or other funding provider.
- 9 Information about the market in which the scheme operates or is to operate.

10 The experience and professional competence of the individuals involved in running the scheme.

11 Where a business plan has been revised as a result of a significant change to the information included in it (see section 14A(4)), the circumstances that led to the significant change.

12 Any provision made by the trustees and the scheme proprietor to fund contingent liabilities in respect of the scheme.

### PART 3

#### INFORMATION WHICH MAY BE TAKEN INTO ACCOUNT

13 The scheme's accounts, other than the latest accounts.

14 Any accounts of the scheme proprietor, and of any undertaking that partly or wholly funds the scheme proprietor, provided to the Pensions Regulator under section 8 or section 26A, other than the latest accounts.

Section 14A(2)

### SCHEDULE 1B

#### BUSINESS PLAN: INFORMATION AND REQUIREMENTS

### PART 1

#### INFORMATION TO BE INCLUDED IN A BUSINESS PLAN

##### *General*

1 The date by reference to which the information in the business plan is stated (the "effective date" of the plan) (see paragraph 26).

2 The period to which the business plan relates, to be no less than three years and no more than five years starting with the effective date of the plan (the "plan period").

3 In each case where estimates are provided in connection with a business plan—

(a) the assumptions used in reaching those estimates, and  
(b) the circumstances in which, and the extent to which, the scheme's actual membership, contributions, income and costs may vary from the estimates.

4 The name of the person who prepared the business plan.

5 A statement, signed by the trustees and the scheme proprietor, confirming—

(a) that the scheme proprietor considers the business plan to give a true and fair representation of the matters to which it relates, and

(b) that the business plan has been approved by the trustees.

*Information about scheme*

6 The name by which the scheme is known.

7 The name under which the scheme is registered under Chapter 2 of Part 4 of the Finance Act 2004 (if the scheme is so registered).

8 If different, any trading or brand name under which the scheme is promoted or marketed.

9 The date when the scheme was established.

10 The address of the scheme's office notified to HM Revenue and Customs when the scheme was registered under Chapter 2 of Part 4 of the Finance Act 2004, or any other address subsequently notified to HM Revenue and Customs in connection with that registration (if the scheme is so registered).

11 The name of—

(a) each trustee of the scheme, and

(b) the scheme proprietor.

12 The name and address of any scheme administrator (within the meaning given by section 270 of the Finance Act 2004).

13 The number of participating employers.

14 The number of members, broken down into active members, deferred members and pensioner members (within the meanings given in section 124(1) of the Pensions Act 1995).

15 In the three years ending with the effective date of the plan—

- (a) the number of members joining the scheme,
- (b) the number of members transferring from the scheme, and
- (c) the number of members leaving the scheme.

16 The number given to the scheme when it was placed on the register of occupational and personal pension schemes compiled and maintained by the Pensions Regulator under section 59(1) of the Pensions Act 2004 (if the scheme has been so placed).

17 The reference number issued to the scheme by HM Revenue and Customs when the scheme was registered under Chapter 2 of Part 4 of the Finance Act 2004 (if the scheme is so registered).

18 The scheme's objectives and its strategy for meeting them, including delivery milestones.

*Information about scheme proprietor*

19 Details of the succession planning in place in the event that—

- (a) any single undertaking that provides significant funding to the scheme proprietor ceases to do so, or
- (b) two or more undertakings that provide funding to the scheme proprietor which collectively is significant cease to do so.

20 A description of the activities (if any) carried out by the scheme proprietor which do not relate directly to the scheme.

21 The identity of any regulator (other than the Pensions Regulator) that regulates activities carried out by the scheme proprietor.

22 In paragraph 21 “regulator” means—

- (a) a person who has responsibility for, or oversight of, an area of activity by virtue of any legislation, or
- (b) a person in a country or territory outside the United Kingdom which exercises functions of a public nature corresponding or similar to functions of a person referred to in sub-paragraph (a).

23 A declaration as to the overall competence of the scheme proprietor, with particular reference to the scheme proprietor's experience, knowledge and professional qualifications, and plans to improve that competence by way of continuous professional development or otherwise.

*Information following a triggering event*

24 Where a triggering event has reduced the value of the financial resources of the scheme (see section 14A(4)(b)), the plans and timetable for restoring the scheme's financial resources to a level likely to satisfy the Pensions Regulator that the scheme is financially sustainable.

PART 2

REQUIREMENTS RELATING TO A BUSINESS PLAN

25 A business plan must be—

- (a) in writing, and
- (b) in the format set out in a Code.

26 The information in the business plan must be correct as at the later of—

- (a) a date chosen by the scheme proprietor, but not earlier than six months before the date when the trustees of the scheme apply to the Pensions Regulator for authorisation,
- (b) where a business plan has been revised as a result of a review under section 14A(3), the date the review was completed,
- (c) where a business plan has been revised as a result of a significant change to the information contained in it, the date on which the significant change occurred, and
- (d) where a business plan has been revised as a result of a triggering event reducing the value of the financial resources of the scheme, the earlier of—
  - (i) one month after the date the triggering event occurred, and
  - (ii) such date as the Pensions Regulator may notify to the scheme proprietor for the purposes of this paragraph.

27 If a revised business plan is provided in accordance with section 14A(6)(b) or (c) the plan must—

- (a) indicate the parts of it which have been revised, and
- (b) include a new statement in accordance with paragraph 5.

28 Paragraph 27 applies if—

- (a) a triggering event has occurred in relation to the scheme (see section 31),
- (b) the trustees are pursuing continuity option 1 or 2 (see sections 36 and 37), and
- (c) the Pensions Regulator has approved an implementation strategy relating to the scheme (see sections 39 and 40).

29 Where this paragraph applies, the Pensions Regulator may give notice to the scheme proprietor and the trustees of the scheme specifying that a revised business plan provided during the triggering event period (see section 32)—

- (a) must state that the circumstances described in paragraph 28(a) to (c) exist, and
- (b) need not—
  - (i) contain the information specified in Part 1 or set out in a Code under section 14A(2)(a), or
  - (ii) comply with any requirements set out in a Code under section 14A(2)(b).

Section 14D(1) and (2)

## SCHEDULE 1C

### PROMOTION OR MARKETING REQUIREMENT

#### PART 1

#### NO PROMOTION OR MARKETING THAT IS UNCLEAR OR MISLEADING WITHOUT RECTIFICATION

##### *Accuracy and Consistency*

1 Whether any information included in the promotion or marketing of the scheme is accurate, and whether that information is consistent with the information contained in—

- (a) the document prepared by the scheme actuary under regulation 31(3)(b) (soundness of scheme design) of the Occupational Pension Schemes (Collective Money Purchase Schemes) (Extension to Unconnected Multiple Employer Schemes and Miscellaneous Provisions) Regulations 2025 (S.I. 2025/xxxx) for the purposes of the viability report that is the most recent viability report at the time of the promotion or marketing;
- (b) the document prepared by the trustees for the purposes of regulation 31(3)(c) of those Regulations (investment strategy) for the purposes of the viability report that is the most recent viability report at the time of the promotion or marketing;
- (c) the summary, if any, published most recently in relation to the scheme at the time of the promotion or marketing, in accordance with regulation 29B(2) of, and paragraph 1A of Schedule 11 to, the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734) (scheme design statement).

### *Transparency*

2 (1) Whether the promotion or marketing of the scheme clearly and accurately explains, in accordance with any provision set out in a Code—

- (a) how the rate or amount of benefits provided to members under the scheme is determined, including supporting illustrations of what individual members might receive;
- (b) that performance of investments can fluctuate;
- (c) that the expected value of the rights to benefits is not guaranteed;
- (d) that levels of the rate or amount of benefits provided to members under the scheme can fluctuate;
- (e) what would happen if the scheme becomes unable to continue to operate;
- (f) such other matters as may be set out in a Code.

(2) Whether the promotion or marketing of the scheme provides—

- (a) access to the summary, published most recently in relation to the scheme at the time of the promotion or marketing, in accordance with regulation 29B(2) of, and paragraph 1A of Schedule 11 to, the Occupational and

Personal Pension Schemes (Disclosure of Information) Regulations 2013  
(scheme design statement), or

(b) where such a summary has not been published at the time of the promotion or marketing, information about where the summary will be published and the expected date of publication.

## PART 2

### PROMOTION OR MARKETING: SYSTEMS AND PROCESSES

#### *Quality assurance*

3 Whether there are quality assurance checks to ensure that promotion or marketing of the scheme is clear and not misleading.

#### *Resource planning*

4 Whether there are systems and processes for ensuring that there are sufficient individuals, with the relevant skills, knowledge, experience and capacity necessary to enable relevant functions to be carried out by or on behalf of the scheme—

(a) in a manner that secures that promotion or marketing of the scheme is clear and not misleading, and

(b) in accordance with the scheme's systems and processes concerning promotion or marketing of the scheme.

#### *Feedback and complaints*

5 Whether there are systems and processes—

(a) for gathering feedback concerning promotion or marketing of the scheme;

(b) for directing complaints concerning the promotion or marketing of the scheme to the correct channels for resolution;

(c) for evaluating feedback and complaints concerning promotion or marketing of the scheme and sharing such feedback and complaints with the trustees of the scheme and the scheme proprietor;

(d) for taking into account feedback and complaints concerning promotion or marketing of the scheme in the design of the promotion or marketing of the scheme;

(e) for reporting to the trustees and the scheme proprietor as to how feedback and complaints have been taken into account in the design of the promotion or marketing of the scheme.

### *Functionality of IT systems*

6 Whether the IT systems used for the purposes of record-keeping in respect of promotion or marketing of the scheme have the necessary capacity and capability to record and manage all documents relating to promotion or marketing of the scheme (including all documents relating to feedback and complaints) in an accessible form, and to retain those documents for at least six years.

### *Risk management*

7 Whether there are systems and processes for identifying, managing and monitoring risks in respect of the promotion or marketing of the scheme.

### *Governance*

8 Whether there are systems and processes—

(a) for the identification of roles and responsibilities in respect of the oversight of promotion or marketing of the scheme;

(b) for the appointment of persons with sufficient skills, knowledge and experience to carry out those roles;

(c) for setting clear objectives concerning the promotion or marketing of the scheme and for monitoring whether those objectives are being met within the relevant timescales;

(d) for documenting and reporting to the scheme proprietor and the trustees of the scheme matters relating to the oversight of the promotion or marketing of the scheme;

(e) for identifying and addressing any failures in the oversight of the promotion or marketing of the scheme;

(f) for ensuring that all persons carrying out relevant functions are aware of the requirement that promotion or marketing of the scheme is clear and not misleading

### *Interpretation of Part 2*

9 In this Part “relevant functions” in relation to a scheme are—

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

Section 44

## SCHEDULE 2

### PAUSE ORDERS

#### *Consequences of a pause order*

1(1) If a pause order is made in relation to a collective money purchase scheme, any action taken in contravention of the order is void, except to the extent that the action is validated by an order under paragraph 3.

(2) If a pause order contains a direction under section 44(5)(b) that no further payments (or no further payments of a specified description) are to be made towards a scheme during the period for which the order has effect—

(a) any payments that are the subject of the direction and would otherwise be due to be made towards the scheme during that period are to be treated as if they do not fall due, and

(b) any obligation to make those payments (including any obligation under section 49(8) of the Pensions Act 1995 to pay amounts deducted corresponding to such payments) is to be treated as if it does not arise.

(3) If a pause order contains a direction under section 44(5)(d) (no payment of benefits or benefits of a specified description under the scheme rules) and an amount of benefit under the scheme rules was not paid as a result of the direction—

(a) the direction does not affect any entitlement to that benefit, and

(b) any benefit to which a member, or a person in respect of a member, remains entitled at the end of the period for which the pause order had effect is an amount that falls due to the member or (as the case may be) the person at the end of that period.

(4) If a pause order contains a direction under section 44(5)(e) (no transfers etc of members' rights) it does not prevent—

(a) a pension sharing order or provision having effect, or

(b) a pension earmarking order having effect in a case where—

(i) the order requires a payment to be made if a payment in respect of any benefits under the scheme becomes due to a person, and

(ii) a direction under section 44(5)(d) does not prevent the payment becoming due.

(5) In sub-paragraph (4)—

“pension sharing order or provision” means an order or provision falling within section 28(1) of the Welfare Reform and Pensions Act 1999 (activation of pension sharing);

“pension earmarking order” means—

(a) an order under section 23 of the Matrimonial Causes Act 1973 (financial provision orders in connection with divorce etc) so far as it includes provision made by virtue of section 25B or 25C of that Act (powers to include provision about pensions),

(b) an order under Part 1 of Schedule 5 to the Civil Partnership Act 2004 (financial provision in connection with dissolution, nullity or separation) so far as it includes provision made by virtue of paragraphs 25 and 26 of Part 6 of that Schedule (powers to include provision about pensions),

(c) an order under section 12A(2) or (3) of the Family Law (Scotland) Act 1985 (powers in relation to pension lump sums when making a capital sum order),

(d) an order under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)) so far as it includes provision made by virtue of Article 27B or 27C of that Order (Northern Ireland powers corresponding to those mentioned in paragraph (a)), or

(e) an order under Part 1 of Schedule 15 to the Civil Partnership Act 2004 (financial provision in connection with dissolution, nullity or separation: Northern Ireland) so far as it includes provision made by virtue of paragraphs 20 and 21 of Part 5 of that Schedule (powers to include provision about pensions).

(6) The Secretary of State may make regulations modifying any provision of—

(a) Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 (transfer rights: general), or

(b) Chapter 2 of that Part (early leavers: cash transfer sums and contribution refunds),

in their application to a collective money purchase scheme in relation to which a pause order has effect containing a direction under section 44(5)(e) (no transfers etc of members' rights).

(7) Regulations under sub-paragraph (6) override any provision of the collective money purchase scheme, to the extent that there is a conflict.

(8) Disregarding sub-paragraph (1), if a pause order made in relation to a collective money purchase scheme is not complied with, section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee of the scheme who has failed to take all reasonable steps to secure compliance.

(9) Sub-paragraph (8) does not apply in the case of non-compliance with a direction under section 44(5)(c) (direction that certain deducted payments are to be repaid by employer).

(10) In such a case, section 10 of the Pensions Act 1995 (civil penalties) applies to an employer who, without reasonable excuse, fails to repay an amount as required by the direction.

(11) Regulations under sub-paragraph (6) are subject to negative resolution procedure.

*Period of effect etc of pause order*

2(1) A pause order must specify the period for which it has effect, which must not exceed three months.

(2) The Pensions Regulator may on one or more occasions by order extend the period for which the pause order has effect for a further three months.

(3) A pause order that is in effect at the end of the triggering event period ceases to have effect at the end of that period.

#### *Validation of action in contravention of pause order*

3(1) If a pause order is made in relation to a collective money purchase scheme, the Pensions Regulator may by order validate action taken in contravention of the order.

(2) Any of the following persons may apply to the Regulator for an order under this paragraph validating particular action—

- (a) the trustees of the scheme;
- (b) any person directly affected by the action.

#### *Notification of trustees, employers and members*

4(1) This paragraph applies where—

- (a) a pause order is made in relation to a collective money purchase scheme,
- (b) an order is made under paragraph 2(2) extending the period for which a pause order made in relation to a collective money purchase scheme has effect, or
- (c) an order is made under paragraph 3 validating action taken in contravention of a pause order made in relation to a collective money purchase scheme.

(2) The Pensions Regulator must, as soon as reasonably practicable after the order has been made, notify the trustees of the scheme of the fact that the order has been made and of its effect.

(3) The Pensions Regulator may by order direct the trustees of the scheme to notify the following persons of the fact that the order has been made and of its effect—

- (a) all of the members of the scheme or such members as are of a description specified in the order;

(b) all employers by which the scheme is used, or such employers as are of a description specified in the order;

(c) **where the scheme is a single or connected employer scheme**, all relevant former employers who, but for the pause order, would be liable to make payments towards the scheme, or such of them as are of a description specified in the order.

(4) The trustees must give the notification within the period and in the manner specified in the order under sub-paragraph (3).

(5) If the trustees of a scheme fail to comply with a direction to them contained in an order under sub-paragraph (3), section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who has failed to take all reasonable steps to secure compliance.

### *Supplementary*

5(1) A pause order, or an order made under any of paragraphs 2, 3 and 4, may be made in relation to a collective money purchase scheme—

(a) in spite of any enactment or rule of law, or any rule of the scheme, that would otherwise operate to prevent the order being made, and

(b) without regard to any enactment, rule of law or rule of the scheme that would otherwise require, or might otherwise be taken to require, the implementation of any procedure or the obtaining of any consent, with a view to making the order.

(2) Sub-paragraph (1) does not have effect to authorise the Pensions Regulator to make an order as mentioned in that sub-paragraph if its doing so would be unlawful as a result of section 6(1) of the Human Rights Act 1998 (unlawful for public authority to act in contravention of a Convention right).

[Unamended provisions omitted]