



2016 CHAPTER 1

PART 2

COLLECTIVE BENEFITS

*Dealing with deficits and surpluses*

**Policy for dealing with a deficit or surplus**

**21.—**(1) Regulations may require the trustees or managers of a pension scheme—

- (a) to have a policy for dealing with a deficit or surplus in respect of any collective benefits that may be provided by the scheme, and
- (b) to follow that policy if a valuation report shows a deficit or surplus.

(2) For the purposes of this Part—

- (a) there is a “deficit” in respect of a collective benefit if the probability of the scheme meeting a target in relation to the benefit is below the required range, and
- (b) there is a “surplus” in respect of a collective benefit if the probability of the scheme meeting a target in relation to the benefit is above the required range.

(3) Regulations under subsection (1)(a) may, in particular—

- (a) require the trustees or managers to consult about the policy;
- (b) make provision about the content of the policy;
- (c) set out matters that the trustees or managers must take into account, or principles they must follow, in formulating the policy;

- (d) make provision about reviewing and revising the policy.
- (4) The regulations may, in particular, require the policy—
  - (a) to be formulated with a view to achieving results described in the regulations within a period or periods described in the regulations;
  - (b) to contain provision for a deficit or surplus to be dealt with in one or more of a range of ways described in the regulations;
  - (c) to contain an explanation of the possible effect of the policy, or any requirements imposed by regulations under section 22, on members in different circumstances.

#### **Power to impose requirements about dealing with a deficit or surplus**

**22.—**(1) Regulations may specify circumstances in which a deficit or surplus in respect of any collective benefits that may be provided by a pension scheme must be dealt with in a particular way.

(2) The regulations may, in particular, specify steps that must be taken by the trustees or managers and the period or periods within which any steps must be taken.

#### **Deficits attributable to an offence or the imposition of a levy**

**23.—**(1) Regulations may provide for an amount to be treated as a debt due from an employer to the trustees or managers of a pension scheme that provides collective benefits in cases where there is a deficit that is attributable to a specified offence or the imposition of a specified levy.

(2) The regulations may, in particular, make provision corresponding or similar to any provision made by Article 75 of the 1995 Order (amounts deemed to be debts due from an employer).

(3) For the purposes of this section—

“employer” has the meaning given by Article 2 of the 2005 Order;

“deficit” has the meaning given by the regulations (and the meaning need not be the same as in section 21).

#### **Payment of amounts out of collective benefit funds**

**24.—**(1) Regulations must prohibit the making of payments out of funds held for the purposes of providing collective benefits except for—

- (a) payments made for the purpose of providing those benefits, or
- (b) other specified payments.

(2) The regulations may, in particular, make provision corresponding or similar to any provision made by Article 37 of the 1995 Order (payment of surplus to employer in the case of an occupational trust-based scheme).