



# Pension Schemes Act 2017

## 2017 CHAPTER 17

### PART 1

#### MASTER TRUSTS

##### *Triggering events: continuity*

#### **20 Triggering event: duties of trustees**

If a triggering event occurs in relation to a Master Trust scheme, the trustees must—

- (a) comply with the notification requirements applicable to them (see section 22),
- (b) comply with the requirements of section 23 (continuity options), and
- (c) comply with the requirements of section 26 (implementation strategy).

#### **Commencement Information**

**II** S. 20 in force at Royal Assent for specified purposes, see s. 44(1)(a)(iii)

#### **21 Triggering events**

- (1) A triggering event occurs in relation to a Master Trust scheme if—
  - (a) an event within the second column of the table in subsection (6) occurs in relation to it, and
  - (b) the event does not occur within an existing triggering event period for the scheme (subject to subsection (2)).
- (2) An event within item 1, 2 or 3 of the table (notice of decision to withdraw authorisation; notification that scheme is not authorised) is a triggering event even if it occurs within an existing triggering event period.
- (3) A triggering event occurs on the date specified in relation to the event in the third column of the table.

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- (4) A “triggering event period” for a Master Trust 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 (5).
- (5) The dates are—
- (a) the date on which the scheme is wound up;
  - (b) the date on which the trustees receive notification from the Pensions Regulator that the Regulator is satisfied that the triggering event has been resolved (see section 25);
  - (c) in the case of an event within item 1 or 2 of the table (notice of decision to withdraw authorisation), the date on which it becomes clear that authorisation is not to be withdrawn (see section 34).
- (6) The table is—

<i>Item</i>	<i>Triggering event</i>	<i>Date event occurs</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.
3.	The Pensions Regulator gives a notification under section 3(3) (scheme not authorised).	The date on which the notification is given.
4.	An insolvency event occurs in relation to a scheme funder.	The date on which the insolvency event occurs.
5.	A scheme funder becomes unlikely to continue as a going concern, where the scheme funder is a person or body of a kind that meets requirements prescribed under section 129(1)(b) of the Pensions Act 2004.	The date on which— (a) the scheme funder notifies the Pensions Regulator of that fact, or (b) (if earlier) the trustees or a scheme strategist become aware of that fact.
6.	A scheme funder decides to end the relationship or arrangement with the Master Trust scheme by virtue of which it is a scheme funder.	The date of the decision.
7.	A scheme funder ends the relationship or arrangement with the Master Trust scheme by virtue of which it is a scheme funder.	The date on which— (a) the scheme funder notifies the Pensions Regulator of that fact, or

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- (b) (if earlier) the trustees or a scheme strategist become aware of that fact.
8. A scheme funder, scheme strategist or the trustees decide that the Master Trust scheme should be wound up, where the person making the decision has power to do so under the scheme or the rules of the scheme. The date of the decision.
9. An event occurs which is required or permitted by the scheme or the rules of the scheme to result in the winding up of the Master Trust scheme. The date on which the event occurs.
10. The trustees decide that the Master Trust scheme is at risk of failure and so it is necessary for one of the continuity options to be pursued (see section 23). The date of the decision.
- (7) A Master Trust 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.
- (8) In this section—  
“determination notice” has the meaning given by section 98(2)(a) of the Pensions Act 2004;  
“special procedure” has the meaning given by section 98 of that Act;  
“standard procedure” has the meaning given by section 96 of that Act;  
“warning notice” has the meaning given by section 96(2)(a) of that Act.

#### Commencement Information

**I2** S. 21 in force at Royal Assent for specified purposes, see s. 44(1)(a)(iii)

## 22 Notification requirements

- (1) Subsection (2) applies if an event within an item of the table in section 21(6) that is listed in the first column of the table in subsection (3) occurs in relation to a Master Trust scheme.
- (2) Each person specified in relation to the event in the second column of the table must notify the Pensions Regulator.
- (3) The table is—

<i>Event</i>	<i>Person under duty to notify Pensions Regulator</i>
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Item 4 (insolvency event in relation to a scheme funder)	The scheme funder.
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Item 5 (scheme funder unlikely to continue as a going concern) The scheme funder.

Item 6 (scheme funder decides to end relationship or arrangement) The scheme funder.

Item 7 (scheme funder ends relationship or arrangement) The scheme funder.

Item 8 (scheme funder, scheme strategist or trustees decide that scheme should be wound up) The person or persons who take the decision.

Item 10 (trustees decide that it is necessary to pursue continuity option) The trustees.

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(4) If—

- (a) an event within an item of the table in section 21(6) that is listed in the first column of the table in subsection (5) occurs in relation to a Master Trust scheme, and
- (b) a person specified in relation to the event in the second column of the table becomes aware that the event has occurred,

the person must notify the Pensions Regulator.

(5) The table is—

<i>Event</i>	<i>Persons under duty to notify Pensions Regulator if become aware of event</i>
Item 4 (insolvency event in relation to a scheme funder)	The trustees. A scheme strategist.
Item 5 (scheme funder unlikely to continue as a going concern)	The trustees. A scheme strategist.
Item 6 (scheme funder decides to end relationship or arrangement)	The trustees. A scheme strategist.
Item 7 (scheme funder ends relationship or arrangement)	The trustees. A scheme strategist.
Item 8 (scheme funder, scheme strategist or trustees decide that scheme should be wound up)	The trustees. A scheme funder. A scheme strategist.
Item 9 (event required or permitted to lead to winding up of scheme)	The trustees. A scheme funder. A scheme strategist.
Item 10 (trustees decide that it is necessary to pursue continuity option)	A scheme funder. A scheme strategist.

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(6) If a triggering event occurs in relation to a Master Trust scheme, the trustees must notify the employers—

- (a) of the occurrence of the event, and
- (b) of such other matters as may be specified in regulations made by the Secretary of State.

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- (7) A notification under this section must be given before the end of the period specified in regulations made by the Secretary of State.
- (8) No duty to which a person is subject is to be regarded as contravened merely because of any information provided to the Pensions Regulator under this section.
- (9) 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.
- (10) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.
- (11) Regulations under this section are subject to negative resolution procedure.

#### Commencement Information

**I3** S. 22 in force at Royal Assent for specified purposes, see s. 44(1)(a)(iii)

VALID FROM 05/09/2018

## 23 Continuity options

- (1) If a triggering event occurs in relation to a Master Trust scheme, the trustees must comply with the requirements of this section.
- (2) In the following cases, the trustees must pursue continuity option 1—
  - (a) the triggering event is within item 1 or 2 of the table in section 21(6), and the decision to withdraw authorisation has become final (see section 35);
  - (b) the triggering event is within item 3 of that table.
- (3) In those cases, the trustees must pursue continuity option 1 even if—
  - (a) the triggering event within item 1, 2 or 3 occurs within the triggering event period for an earlier triggering event, and
  - (b) the trustees have already decided to pursue continuity option 2 in respect of the earlier triggering event.
- (4) In any other case, the trustees must decide whether to pursue continuity option 1 or continuity option 2.
- (5) “Continuity option 1” is for—
  - (a) the accrued rights and benefits under the Master Trust scheme of all members of the scheme to be transferred out of the scheme, and
  - (b) the Master Trust scheme to be wound up, in accordance with regulations under section 24.
- (6) “Continuity option 2” is for the triggering event to be resolved (see section 25).
- (7) This section overrides any provision of the Master Trust scheme, to the extent that there is a conflict.

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

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## 24 Continuity option 1: transfer out and winding up

- (1) Where the trustees of a Master Trust scheme are required, or decide, to pursue continuity option 1 they must—
- (a) identify one or more pension schemes to which (subject to Part 4ZA of the Pension Schemes Act 1993 and to provision made by regulations under subsections (2)(b) and(4)) members' accrued rights and benefits under the Master Trust scheme are proposed to be transferred, and
  - (b) notify employers and members of the proposed transfer and of such other matters as may be specified in regulations made by the Secretary of State.
- (2) Each pension scheme proposed under subsection (1)(a) must be—
- (a) a Master Trust scheme, or
  - (b) in such circumstances as may be specified in regulations made by the Secretary of State, a pension scheme that has characteristics specified in regulations made by the Secretary of State (“an alternative scheme”).
- (3) Notification under subsection (1)(b) must be given—
- (a) in the manner specified in regulations made by the Secretary of State, and
  - (b) before the end of the time period specified in regulations made by the Secretary of State.
- (4) The Secretary of State—
- (a) must make regulations about how continuity option 1 is to be pursued, in a case where a proposed transfer is to a Master Trust scheme;
  - (b) may make regulations about how continuity option 1 is to be pursued, in a case where a proposed transfer is to an alternative scheme;
  - (c) may make regulations for the purpose of otherwise giving effect to continuity option 1, in either case.
- (5) Regulations under subsection (4)(a) must include provision—
- (a) for the purpose of ensuring that members of the Master Trust scheme stop accruing rights and receiving benefits under the scheme;
  - (b) conferring rights on all or a specified description of members to opt out of the proposed transfer;
  - (c) conferring rights on all or a specified description of employers to opt out of the proposed transfer;
  - (d) conferring rights on all or a specified description of members to require the trustees to transfer the members' accrued rights and benefits to alternative schemes;
  - (e) conferring rights on all or a specified description of employers to propose the transfer of members' accrued rights to one or more alternative schemes;
  - (f) imposing duties on employers and the trustees to inform members of any such proposal;

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- (g) about how rights conferred by the regulations may be exercised (including the time periods within which they may be exercised);
  - (h) specifying requirements to be met by a scheme proposed by the trustees or an employer (which may include approval or authorisation by the Pensions Regulator in accordance with the regulations);
  - (i) requiring a scheme proposed by the trustees or an employer to provide the Pensions Regulator with a document setting out the levels of administration charges that applied in relation to members of the scheme, in the manner and as at the date specified or described in the regulations;
  - (j) imposing duties on the trustees to notify all or a specified description of employers and members of their rights under the regulations and of members' rights under Part 4ZA of the Pension Schemes Act 1993 (transfers and contribution refunds);
  - (k) about the exercise by the trustees of their power to transfer members' accrued rights and benefits out of a Master Trust scheme in cases where employers and members do not exercise their rights under the regulations or Part 4ZA of the Pension Schemes Act 1993;
  - (l) about the exercise by the trustees of their power to transfer members' accrued rights and benefits out of a Master Trust scheme other than by a transfer to a scheme in a specified description of cases;
  - (m) imposing conditions on the exercise by the trustees of their power to transfer members' accrued rights and benefits out of a Master Trust scheme in a specified description of cases;
  - (n) about the winding up of the Master Trust scheme in circumstances where the accrued rights and benefits of the members are, or are to be, transferred out of the scheme;
  - (o) conferring power on the Pensions Regulator to direct the trustees to do things permitted or required by the regulations.
- (6) Regulations under subsection (4)(b) may include—
- (a) any provision mentioned in subsection (5);
  - (b) provision deeming any member whose accrued rights or benefits are to be transferred to an alternative scheme to have entered into an agreement with a person of a description specified in the regulations.
- (7) In this section references to a transfer of members' accrued rights and benefits out of a Master Trust scheme include references to the trustees complying with obligations imposed on them under Part 4ZA of the Pension Schemes Act 1993.
- (8) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.
- (9) 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.
- (10) Regulations under subsections (2)(b) and (4) are subject to affirmative resolution procedure.
- (11) Other regulations under this section are subject to negative resolution procedure.

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## 25 Continuity option 2: resolving triggering event

- (1) Where the trustees of a Master Trust 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 set out how the trustees consider that the triggering event has been resolved.
- (4) The notification must be given before the end of the period specified in regulations made by the Secretary of State.
- (5) After receiving the notification, the Pensions Regulator must notify the trustees of whether it is satisfied that the triggering event has been resolved.
- (6) The Pensions Regulator may not form the view that a triggering event has been resolved unless it is satisfied that any other event within the table in section 21(6) that has occurred in relation to the Master Trust scheme since the occurrence of the triggering event has also been resolved.
- (7) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to comply with a requirement imposed by this section.
- (8) Regulations under this section are subject to negative resolution procedure.

### Commencement Information

**I4** S. 25 in force at Royal Assent for specified purposes, see s. 44(1)(a)(iii)

VALID FROM 05/09/2018

## 26 Approval of implementation strategy

- (1) If a triggering event occurs in relation to a Master Trust scheme, the trustees must submit an implementation strategy to the Pensions Regulator for approval.
- (2) But in the case of a triggering event within item 1 or 2 of the table in section 21(6), the trustees must submit an implementation strategy only if the decision to withdraw authorisation has become final (see section 35).
- (3) If a triggering event within item 1, 2 or 3 of the table in section 21(6) 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, if they have not done so when the later triggering event occurs;
  - (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.
- (4) The Pensions Regulator may approve an implementation strategy only if it is satisfied that the strategy is adequate (see section 27).



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- (5) Where the trustees are required to submit an implementation strategy to the Pensions Regulator for approval, the strategy must be submitted before the end of a period specified in regulations made by the Secretary of State.
- (6) The procedure for approval of an implementation strategy is to be specified by the Pensions Regulator.
- (7) The Pensions Regulator may direct the trustees to comply with the requirements of this section.
- (8) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a direction under subsection (7).
- (9) This section overrides any provision of the Master Trust scheme, to the extent that there is a conflict.
- (10) Regulations under this section are subject to negative resolution procedure.

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## **27 Content of implementation strategy**

- (1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that an implementation strategy for a Master Trust scheme is adequate (see section 26(4)).
- (2) An implementation strategy is a document setting out how the interests of members of the scheme are to be protected following the occurrence of the triggering event.
- (3) An implementation strategy must include a section setting out the levels of administration charges that applied in relation to members of the scheme.
- (4) The strategy must set out those levels of administration charges in the manner and as at the date specified or described in regulations made by the Secretary of State.
- (5) An implementation strategy must include information about the following matters—
  - (a) the continuity option that the trustees are required, or decide, to pursue (see section 23);
  - (b) where the trustees are required, or decide, to pursue continuity option 1 (transfer of members' accrued rights and benefits and winding up)—
    - (i) the scheme or schemes to which it is proposed that the accrued rights and benefits be transferred (if known), and
    - (ii) when the accrued rights and benefits are expected to be transferred (where employers and members do not exercise their rights under section 24 of this Act and Part 4ZA of the Pension Schemes Act 1993);
  - (c) where the trustees intend to pursue continuity option 2 (resolving the triggering event), how it is proposed that the triggering event should be resolved.
- (6) An implementation strategy must—
  - (a) contain such other information as may be specified in regulations made by the Secretary of State, and

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- (b) be prepared in accordance with regulations made by the Secretary of State.
- (7) Regulations under this section are subject to negative resolution procedure.

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## **28 Duty to pursue continuity option**

- (1) When the Pensions Regulator has notified the trustees of a Master Trust scheme that the implementation strategy is approved, the trustees must—
- (a) pursue the continuity option identified in the strategy;
  - (b) take such other steps as are identified in the strategy in order to carry it out.
- (2) The trustees must also make the strategy available to the employers before the end of a period specified in regulations made by the Secretary of State.
- (3) If—
- (a) a triggering event within item 1, 2 or 3 of the table in section 21(6) occurs within the triggering event period for an earlier triggering event, and
  - (b) an implementation strategy has been approved by the Pensions Regulator in respect of the earlier triggering event,
- the trustees are not required to comply with subsections (1) and (2) in respect of the strategy approved in respect of the earlier triggering event.
- (4) The Pensions Regulator may direct the trustees to comply with the requirements of 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) This section overrides any provision of—
- (a) the Master Trust scheme, and
  - (b) a Master Trust scheme contract,
- to the extent that there is a conflict.
- (7) Regulations under this section are subject to negative resolution procedure.

VALID FROM 05/09/2018

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

- (1) A person may only wind up a Master Trust scheme in accordance with continuity option 1 (see section 24).
- (2) Subsection (1) overrides any provision of a Master Trust scheme to the extent that there is a conflict.
- (3) But subsection (1) does not prevent a Master Trust scheme from being wound up in pursuance of an order under section 11 of the Pensions Act 1995 (power to wind up occupational pension schemes).

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

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### **30 Periodic reporting requirement**

- (1) During a triggering event period for a Master Trust scheme, the trustees must submit periodic 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.

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### **31 Pause orders**

- (1) This section applies during a triggering event period for a Master Trust 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 under 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—

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- (a) a direction that no new members (or no specified classes of new members) are to be admitted to the scheme;
  - (b) a direction that no further contributions or payments (or no further specified contributions or payments) are to be paid towards the scheme by or on behalf of any employers or members (or any specified employers or members);
  - (c) a direction that any amount (or any specified amount) which—
    - (i) corresponds to any contribution which would be due to be paid towards the scheme on behalf of a member but for a direction under paragraph (b), and
    - (ii) has been deducted from a payment of any 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 specified benefits) are to be paid to or in respect of any members (or any specified members) under the scheme rules;
  - (e) a direction that—
    - (i) no transfers (or no specified transfers) of any member's rights under the scheme rules are to be made from the scheme,
    - (ii) no transfer payments (or no specified transfer payments) in respect of any member's rights under the scheme rules are to be made from the scheme, or
    - (iii) no other steps (or no specified other steps) are to be taken to discharge any 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) the references to contributions do not include contributions due to be paid before the order takes effect, and
  - (b) the references to payments towards a scheme include 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 transfers or specified transfers of, or transfer payments or specified transfer payments in respect of, any member's rights under the scheme rules may not 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) Schedule 1 makes further provision about pause orders.
- (9) In this section—
- “earnings” has the meaning given by 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 under corresponding Northern Ireland legislation;
  - “specified” means specified in the pause order.

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### **32 Prohibition on new employers during triggering event period**

- (1) During a triggering event period for a Master Trust scheme, neither the trustees nor a scheme funder nor a scheme strategist may—
  - (a) permit a new person to become an employer in relation to the scheme, or
  - (b) enter into an agreement under which a new person will become an employer in relation to the scheme after the end of the triggering event period.
- (2) A “new person” is a person who was not an employer in relation to the scheme on the date on which the triggering event occurred.
- (3) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with subsection (1).

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

- (1) During a triggering event period for a Master Trust scheme, the trustees must not—
  - (a) impose any administration charges on or in respect of members at levels above those set out in the implementation strategy,
  - (b) impose any new administration charges on or in respect of members, or
  - (c) impose any 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 Master Trust scheme must not—
  - (a) impose any administration charges on or in respect of members at levels above those set out in the document provided to the Regulator by virtue of regulations under section 24(5)(i), or
  - (b) impose any new administration charges on or in respect of members, for the purposes of meeting any of the costs mentioned in subsection (3).
- (3) The costs are costs for which a receiving scheme is liable which—
  - (a) were incurred by the transferring scheme, or
  - (b) relate directly to the transfer of members' accrued rights or benefits from the transferring scheme.
- (4) The Secretary of State may by regulations make provision about—
  - (a) how levels of administration charges are to be calculated for the purposes of this section;
  - (b) how to determine for the purposes of subsection (2) the purposes for which charges are increased or imposed;
  - (c) how to determine whether costs for which a receiving scheme is liable fall within subsection (3)(a) or (b).
- (5) This section overrides any provision of—
  - (a) the Master Trust scheme, and
  - (b) a Master Trust scheme contract,to the extent that there is a conflict.

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- (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 24(2)(b).
- (7) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to comply with subsection (1) or (2).
- (8) In this section—
- “receiving scheme” means a pension scheme that—
- (a) receives a transfer of the accrued rights or benefits of members of a transferring scheme during a triggering event period for the transferring 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 those rights or benefits should be transferred;
- “transferring scheme” means a Master Trust scheme the trustees of which, following a triggering event, are pursuing continuity option 1.
- (9) Regulations under subsection (6) are subject to affirmative resolution procedure.
- (10) Other regulations under this section are subject to negative resolution procedure.

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**Commencement Information**

**I5** S. 33 in force at Royal Assent for specified purposes, see s. 44(1)(a)(iii)

**Status:**

Point in time view as at 27/04/2017. This version of this cross heading contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Pension Schemes Act 2017, Cross Heading: Triggering events: continuity.