

STATUTORY INSTRUMENTS

**1996 No. 1715**

**The Occupational Pension Schemes  
(Scheme Administration) Regulations 1996**

[<sup>F1</sup> PART V **E+W+S**

GOVERNANCE OF RELEVANT SCHEMES

**Textual Amendments**

- F1** Pt. V inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **16(1)(b)**

CHAPTER 1 **E+W+S**

GENERAL

**Duty to appoint a chair of the trustees or managers** **E+W+S**

**22.**—(1) Where a relevant scheme which is a trust scheme does not have a chair appointed, the trustees must appoint a chair of the trustees in accordance with this regulation.

(2) The chair of the trustees must be—

- (a) an individual who is a trustee of the scheme;
- (b) a professional trustee body which is a trustee of the scheme;
- (c) where a company which is not a professional trustee body is a trustee of the scheme, an individual who is a director of that company and through whom the company exercises its functions as a trustee of the scheme, or a professional trustee body which is a director of that company; or
- (d) in the case of a scheme established under section 67 of the Pensions Act 2008, a member of the trustee corporation established under section 75 of that Act.

(3) Where a relevant scheme is not a trust scheme, the managers must appoint one of their number to be the chair of the managers.

(4) The first chair of a relevant scheme must be appointed before the end of the period of three months starting with the date on which the scheme is established (but see also paragraph (6)).

(5) Where the chair ceases to hold office as chair for any reason, the trustees or managers must appoint a replacement in accordance with the provisions of this regulation, before the end of the period of three months starting with the date on which the chair ceases to hold that office [<sup>F2</sup>(but see also paragraph (7))].

(6) Paragraph (4) does not apply to a relevant scheme which was established before 6th April 2015 and, if the scheme has no chair on that date, the first chair must be appointed before the end of the period of three months starting with that date.]

[<sup>F3</sup>(7) Paragraph (5) does not apply to a scheme established under section 67 of the Pensions Act 2008.]

#### Textual Amendments

- F2** Words in reg. 22(5) inserted (6.4.2016) by *The Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016 (S.I. 2016/427)*, regs. 1, **5(1)**
- F3** Reg. 22(7) inserted (6.4.2016) by *The Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016 (S.I. 2016/427)*, regs. 1, **5(2)**

#### [<sup>F4</sup>Annual statement regarding governance **E+W+S**

**23.**—(1) Subject to paragraph (3), the trustees or managers of a relevant scheme must prepare a statement within seven months of the end of each scheme year, and that statement must—

(a) in relation to the default arrangement [<sup>F5</sup>(if any)]—

- (i) include the latest statement prepared in accordance with regulation 2A (default investment strategy) of the Occupational Pension Schemes (Investment) Regulations 2005 (“the Investment Regulations”);
- (ii) describe any review undertaken during the scheme year in accordance with paragraph (2) of that regulation;
- (iii) explain any changes resulting from such a review; and
- (iv) where no review was undertaken during the scheme year, give the date of the last review;

[ state the amount of any specified performance-based fees incurred in relation to each default arrangement (if any) during the scheme year, calculated in accordance with regulation 25(1)(a), as a percentage of the average value of the assets held for the purposes of that default arrangement during the scheme year;]

<sup>F6</sup>(aza)

[ state the return on investments, after deduction of any charges or transaction costs relating to those investments (calculated in accordance with regulation 25(1)(a)), relating to—

<sup>F7</sup>(aa)

(i) each default arrangement [<sup>F8</sup>(if any)], and

(ii) each fund [<sup>F9</sup>(if any)]—

- (aa) which members are now able to select or were in the past able to select, and
- (bb) in which assets relating to members are invested during the scheme year,

having regard to guidance issued by the Secretary of State under section 113(2A) of the Pension Schemes Act 1993;]

(b) describe how the requirements of regulation 24 of these Regulations (requirements for processing financial transactions) have been met during the scheme year;

(c) in relation to the charges and transaction costs which the trustees or managers are required to calculate in accordance with regulation 25(1)(a) of these Regulations—

[<sup>F10</sup>(i) state the level of charges and transaction costs applicable to each default arrangement [<sup>F11</sup>(if any)] during the scheme year;]

[<sup>F12</sup>(ii) state the levels of charges and transaction costs applicable to each fund [<sup>F13</sup>(if any)]—

- (aa) which members are now able to select or were in the past able to select, and
- (bb) in which assets relating to members are invested during the scheme year;]

- (iii) indicate any information about transaction costs which the trustees or managers have been unable to obtain and explain what steps are being taken to obtain that information in the future; and
- [<sup>F14</sup>(iv) where the trustees or managers are required to assess the extent to which the charges and transaction costs borne by members represent good value for members, explain that assessment and its results;]
- [ for a collective money purchase scheme, state—
  - <sup>F15</sup>(cza) (i) the charges and transaction costs applicable to the scheme; <sup>F16</sup>...
  - (ii) the return on investments, after deduction of any charges or transaction costs relating to those investments, relating to the fund, having regard to guidance issued by the Secretary of State under section 113(2A) of the Pension Schemes Act 1993; [<sup>F17</sup>and
  - (iii) where the scheme is a qualifying collective money purchase scheme for the purposes of regulation 3A of the Occupational Pension Schemes (Charges and Governance) Regulations 2015 (qualifying collective money purchase schemes), the amount of any specified performance-based fees incurred in relation to the scheme during the scheme year, calculated in accordance with regulation 25(1)(a), as a percentage of the average value of the assets held for the purposes of the scheme during the scheme year;]]
- [ include, in relation to the charges and transaction costs which trustees or managers are <sup>F18</sup>(ca) required to calculate in accordance with regulation 25(1)(a) of these Regulations, an illustrative example of the cumulative effect over time of the application of those charges and costs on the value of a member's accrued rights to money purchase benefits;]
- [ explain the results of any assessment required by virtue of regulation 25(1A);] <sup>F19</sup>(cb)
- [ state the results of any calculations required by virtue of regulation 25A (assessment of <sup>F20</sup>(cc) asset allocation);]
- (d) describe how the requirements of sections 247 and 248 of the 2004 Act (requirements for knowledge and understanding) have been met during the scheme year and explain how the combined knowledge and understanding of the trustees or managers, together with the advice which is available to them, enables them properly to exercise their functions as trustees or managers of the scheme; and
- [<sup>F21</sup>(e) be signed on behalf of the trustees or managers by—
  - (i) the chair; or
  - (ii) where the chair has ceased to hold office as chair for any reason and a replacement has not yet been appointed, a person appointed by the trustees or managers to act as the chair in the interim period.]
- [ <sup>F22</sup>(1A) In complying with the requirements imposed by paragraph (1)(c)(i), (ii) and (ca), the trustees or managers must have regard to guidance prepared from time to time by the Secretary of State.]
- [ <sup>F23</sup>(1B) Paragraph (1)(cb) does not apply if—
  - (a) the Regulator has been notified under section 62(4) or (5) of the Pensions Act 2004 that the winding up of the scheme in question has commenced, and
  - (b) the trustees or managers of the scheme explain why they are not complying with paragraph (1)(cb) in the statement required under paragraph (1)(c)(iv).]

(2) Where the first statement required to be prepared by the trustees or managers of a relevant scheme in accordance with this regulation relates to a scheme year which ends before 5th April 2016, this regulation applies to that statement as if references to “the scheme year” in sub-paragraphs (a) to (d) of paragraph (1) were to the part of the scheme year starting on 6th April 2015.

(3) Where the circumstances in paragraph (2) apply and the period to be covered by the first statement is three months or less, paragraph (1) does not apply to that scheme year, but the statement required to be prepared in relation to the following scheme year must include information relating to the period of three months or less of the previous scheme year.

(4) In this regulation “default arrangement” has the same meaning as in the Investment Regulations.]

### Textual Amendments

- F4** Reg. 23 inserted (6.4.2015) by The Occupational Pension Schemes (Charges and Governance) Regulations 2015 (S.I. 2015/879), regs. 1(2), **17(1)**
- F5** Words in reg. 23(1)(a) inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 1(4)(a)**
- F6** Reg. 23(1)(aza) inserted (with application in accordance with reg. 1(6) of the amending S.I.) by The Occupational Pension Schemes (Administration, Investment, Charges and Governance) and Pensions Dashboards (Amendment) Regulations 2023 (S.I. 2023/399), regs. 1(3), **4(3)(a)**
- F7** Reg. 23(1)(aa) inserted (with application in accordance with reg. 1(3) of the amending S.I.) by The Occupational Pension Schemes (Administration, Investment, Charges and Governance) (Amendment) Regulations 2021 (S.I. 2021/1070), regs. 1(2), **2(2)(a)(i)**
- F8** Words in reg. 23(1)(aa)(i) inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 1(4)(b)**
- F9** Words in reg. 23(1)(aa)(ii) inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 1(4)(c)**
- F10** Reg. 23(1)(c)(i) substituted (coming into force in accordance with reg. 1(1)(3) of the amending S.I.) by The Occupational Pension Schemes (Administration and Disclosure) (Amendment) Regulations 2018 (S.I. 2018/233), **reg. 2(2)**
- F11** Words in reg. 23(1)(c)(i) inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 1(4)(d)**
- F12** Reg. 23(1)(c)(ii) substituted (with application in accordance with reg. 1(3) of the amending S.I.) by The Occupational Pension Schemes (Administration, Investment, Charges and Governance) (Amendment) Regulations 2021 (S.I. 2021/1070), regs. 1(2), **2(2)(a)(ii)(aa)**
- F13** Words in reg. 23(1)(c)(ii) inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 1(4)(e)**
- F14** Reg. 23(1)(c)(iv) substituted (with application in accordance with reg. 1(3) of the amending S.I.) by The Occupational Pension Schemes (Administration, Investment, Charges and Governance) (Amendment) Regulations 2021 (S.I. 2021/1070), regs. 1(2), **2(2)(a)(ii)(bb)**
- F15** Reg. 23(1)(cza) inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 1(4)(f)**
- F16** Word in reg. 23(1)(cza)(i) omitted (with application in accordance with reg. 1(6) of the amending S.I.) by virtue of The Occupational Pension Schemes (Administration, Investment, Charges and Governance) and Pensions Dashboards (Amendment) Regulations 2023 (S.I. 2023/399), regs. 1(3), **4(3)(b)(i)**
- F17** Reg. 23(1)(cza)(iii) and word inserted (with application in accordance with reg. 1(6) of the amending S.I.) by The Occupational Pension Schemes (Administration, Investment, Charges and Governance) and Pensions Dashboards (Amendment) Regulations 2023 (S.I. 2023/399), regs. 1(3), **4(3)(b)(ii)**
- F18** Reg. 23(1)(ca) inserted (coming into force in accordance with reg. 1(1)(3) of the amending S.I.) by The Occupational Pension Schemes (Administration and Disclosure) (Amendment) Regulations 2018 (S.I. 2018/233), **reg. 2(4)**

- F19** Reg. 23(1)(cb) inserted (with application in accordance with reg. 1(4) of the amending S.I.) by The Occupational Pension Schemes (Administration, Investment, Charges and Governance) (Amendment) Regulations 2021 (S.I. 2021/1070), regs. 1(2), **2(2)(a)(iii)**
- F20** Reg. 23(1)(cc) inserted (with application in accordance with reg. 1(7) of the amending S.I.) by The Occupational Pension Schemes (Administration, Investment, Charges and Governance) and Pensions Dashboards (Amendment) Regulations 2023 (S.I. 2023/399), regs. 1(3), **4(3)(c)**
- F21** Reg. 23(1)(e) substituted (6.4.2016) by The Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016 (S.I. 2016/427), regs. 1, **6**
- F22** Reg. 23(1A) inserted (coming into force in accordance with reg. 1(1)(3) of the amending S.I.) by The Occupational Pension Schemes (Administration and Disclosure) (Amendment) Regulations 2018 (S.I. 2018/233), **reg. 2(5)**
- F23** Reg. 23(1B) inserted (with application in accordance with reg. 1(3) of the amending S.I.) by The Occupational Pension Schemes (Administration, Investment, Charges and Governance) (Amendment) Regulations 2021 (S.I. 2021/1070), regs. 1(2), **2(2)(b)**

**[<sup>F24</sup>Requirements for processing financial transactions **E+W+S**]**

**24.**—(1) The trustees or managers of a relevant scheme must secure that core financial transactions are processed promptly and accurately.

(2) A “core financial transaction” includes (but is not limited to)—

- (a) investment of contributions to the scheme;
- (b) transfers of assets relating to members into and out of the scheme;
- (c) transfers of assets relating to members between different investments within the scheme;
- (d) payments from the scheme to, or in respect of, members.

(3) In relation to a scheme which is not a money purchase scheme, this regulation applies only in relation to the provision of money purchase benefits.]

**Textual Amendments**

- F24** Reg. 24 inserted (6.4.2015) by The Occupational Pension Schemes (Charges and Governance) Regulations 2015 (S.I. 2015/879), regs. 1(2), **18**

**[<sup>F25</sup>Assessment of charges and transaction costs **E+W+S**]**

**25.**—(1) The trustees or managers of a relevant scheme must, at intervals of no more than one year—

(a) calculate—

- (i) the charges [<sup>F26</sup>borne by members of the scheme,]
- (ii) in so far as they are able to do so, the transaction [<sup>F27</sup>costs borne by members of the scheme, and]

<sup>F28</sup>  
...

[ the returns on investments earned by assets in the scheme, and]  
<sup>F29</sup>(iii)

[ the specified performance-based fees incurred in respect of assets in the scheme, and]  
<sup>F30</sup>(iv)

- (b) assess the extent to which those charges<sup>F31</sup>, specified performance-based fees] and transaction costs represent good value for members.

[<sup>F32</sup>(1A) As part of the assessment referred to in paragraph (1)(b), the trustees or managers of a specified scheme [<sup>F33</sup>other than a collective money purchase scheme] (see paragraph (5)) must assess—

- (a) the charges and transaction costs borne by members of the scheme by comparison with the charges and transaction costs borne by members of at least three schemes (“comparison schemes”)—
- (i) each of which satisfies one of the conditions in paragraph (1D)(a), and
  - (ii) at least one of which satisfies the condition in paragraph (1D)(b),
- (b) the return on investments by comparison with the return on investments for each of the three comparison schemes, relating to—
- (i) the default arrangement, and
  - (ii) any funds—
    - (aa) which members are now able to select or were in the past able to select, and
    - (bb) in which assets relating to members are invested,
- and in each case the return on investments is to be calculated after deduction of any charges or transaction costs, and
- (c) how the administrative and governance criteria set out in paragraph (1C) are met by the scheme.]

[<sup>F34</sup>(1ZA) As part of the assessment referred to in paragraph (1)(b), the trustees of a collective money purchase scheme must assess how the administrative and governance criteria set out in paragraph (1C) are met by the scheme.]

[<sup>F32</sup>(1B) In making the assessment required under paragraph (1)(b), the trustees or managers of the specified scheme must have regard to any guidance issued by the Secretary of State by virtue of paragraph 2 of Schedule 18 to the Pensions Act 2014 in relation to that assessment.]

[<sup>F32</sup>(1C) The administration and governance criteria are—

- (a) the promptness and accuracy of core financial transactions;
- (b) the quality of the records kept by the trustees or managers;
- (c) the appropriateness of the default investment strategy [<sup>F35</sup>(if any)] followed by the trustees or managers;

[ for a collective money purchase scheme, the appropriateness of the investment principles

<sup>F36</sup>(ca) governing decisions about investments for the purposes of the scheme, as set out in the latest statement prepared in accordance with regulation 2 (statement of investment principles) of the Occupational Pension Schemes (Investment) Regulations 2005;]

- (d) the quality of the scheme’s investment governance;
- (e) the extent to which—
  - (i) the requirements of sections 247 and 248 of the Pensions Act 2004 (requirements for knowledge and understanding: individual and corporate trustees) are satisfied, and
  - (ii) the trustees or managers have the knowledge, understanding and skills to enable them—

- (aa) properly to exercise their functions, and
- (bb) to operate the scheme effectively;
- (f) the quality of communication with the members of the scheme;
- (g) the effectiveness of the management of any conflicts of interest that might arise between or among trustees and managers, or between trustees, managers and third parties.]

[  
F32(1D) The conditions are that—

- (a) each comparison scheme is—
  - (i) an occupational pension scheme which on the relevant date held total assets equal to or greater than £100 million, or
  - (ii) a personal pension scheme, which is not an investment-regulated pension scheme within the meaning of paragraph 1 of Schedule 29A to the Finance Act 2004;
- (b) the trustees or managers have had discussions with the comparison scheme on a transfer of the rights of members of the specified scheme to that scheme if the specified scheme is wound up.]

[  
F32(1E) Where an occupational pension scheme provides both money purchase benefits within the meaning of section 181 of the Pension Schemes Act 1993 and benefits other than money purchase benefits—

- (b) the trustees or managers of the scheme are only required to comply with the obligations in paragraphs (1A) and (1B) in relation to the assets held for its money purchase benefits, and
- (c) the scheme may only be used as a comparison scheme in relation to the assets held for its money purchase benefits.]

(2) In this regulation (and in regulation 23), “charges” and “transaction costs” have the meanings given in regulation 2(1) of the Occupational Pension Schemes (Charges and Governance) Regulations 2015.

(3) In relation to a scheme which is not a money purchase scheme, this regulation applies only in relation to charges and transaction costs which relate to the provision of money purchase benefits.]

[F37(4) Paragraphs (1A) to (1E) do not apply if—

- (a) the Regulator has been notified under section 62(4) or (5) of the Pensions Act 2004 before the date on which the trustees or managers of the scheme are required to prepare a statement under regulation 23(1) (“the annual statement”) that the winding up of the scheme in question has commenced, and
- (b) the trustees or managers of the scheme explain why they are not complying with paragraph (cb) in the annual statement.]

[F37(5) In this regulation—

“audited accounts” means the audited accounts which the trustees are required to obtain in accordance with regulation 2 of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996;

“core financial transactions” has the same meaning as in regulation 24;

“default arrangement” has the meaning given in regulation 1(2) of the Occupational Pension Schemes (Investment) Regulations 2005;

“default investment strategy” means the default strategy referred to in regulation 2A(1)(c) of the Occupational Pension Schemes (Investment) Regulations 2005;

“ear-marked scheme” has the meaning given by regulation 1(2) of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996;

“relevant date” means the date on which the trustees obtain the audited accounts for the scheme year that ended most recently;

“specified scheme” means a relevant scheme which, on the relevant date—

- (i) held total assets worth less than £100 million, and
- (ii) has been operating for three or more years.]

[<sup>F37</sup>(6) In this regulation, a reference to the “total assets” of a scheme means—

- (a) in the case of a scheme in respect of which the trustees are required to obtain audited accounts, the total of the amount of the net assets of the scheme recorded in the audited accounts for the scheme year, or
- (b) in the case of a scheme which is an ear-marked scheme, the value of the assets of the scheme represented by any policies of insurance or annuity contracts that are specifically allocated to the provision of benefits for individual members or any other person who has a right to benefits under the scheme.]

#### Textual Amendments

- F25** Reg. 25 inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **19**
- F26** Words in reg. 25(1)(a)(i) substituted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Occupational Pension Schemes \(Administration, Investment, Charges and Governance\) \(Amendment\) Regulations 2021 \(S.I. 2021/1070\)](#), regs. 1(2), **2(3)(a)(i)**
- F27** Words in reg. 25(1)(a)(ii) substituted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Occupational Pension Schemes \(Administration, Investment, Charges and Governance\) \(Amendment\) Regulations 2021 \(S.I. 2021/1070\)](#), regs. 1(2), **2(3)(a)(ii)**
- F28** Words in reg. 25(1)(a) omitted (with application in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Occupational Pension Schemes \(Administration, Investment, Charges and Governance\) \(Amendment\) Regulations 2021 \(S.I. 2021/1070\)](#), regs. 1(2), **2(3)(a)(iv)**
- F29** Reg. 25(1)(a)(iii) inserted (with application in accordance with reg. 1(3) of the amending S.I.) by [The Occupational Pension Schemes \(Administration, Investment, Charges and Governance\) \(Amendment\) Regulations 2021 \(S.I. 2021/1070\)](#), regs. 1(2), **2(3)(a)(iii)**
- F30** Reg. 25(1)(a)(iv) inserted (with application in accordance with reg. 1(6) of the amending S.I.) by [The Occupational Pension Schemes \(Administration, Investment, Charges and Governance\) and Pensions Dashboards \(Amendment\) Regulations 2023 \(S.I. 2023/399\)](#), regs. 1(3), **4(4)(a)**
- F31** Words in reg. 25(1)(b) inserted (with application in accordance with reg. 1(6) of the amending S.I.) by [The Occupational Pension Schemes \(Administration, Investment, Charges and Governance\) and Pensions Dashboards \(Amendment\) Regulations 2023 \(S.I. 2023/399\)](#), regs. 1(3), **4(4)(b)**
- F32** Reg. 25(1A)-(1E) inserted (with application in accordance with reg. 1(4) of the amending S.I.) by [The Occupational Pension Schemes \(Administration, Investment, Charges and Governance\) \(Amendment\) Regulations 2021 \(S.I. 2021/1070\)](#), regs. 1(2), **2(3)(b)**
- F33** Words in reg. 25(1A) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 1(5)(a)**
- F34** Reg. 25(1ZA) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 1(5)(b)**
- F35** Words in reg. 25(1C)(c) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 1(5)(c)(i)**
- F36** Reg. 25(1C)(ca) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 1(5)(c)(ii)**



**F37** Reg. 25(4)-(6) inserted (with application in accordance with reg. 1(4) of the amending S.I.) by The Occupational Pension Schemes (Administration, Investment, Charges and Governance) (Amendment) Regulations 2021 (S.I. 2021/1070), regs. 1(2), 2(3)(c)

**[<sup>F38</sup> Assessment of asset allocation E+W+S**

**25A.**—(1) The trustees or managers of a relevant scheme to which this provision applies must, at intervals of no more than one year, calculate the percentage of relevant scheme assets allocated to each of the asset classes in paragraph (3).

(2) This provision applies to a relevant scheme unless it is a collective money purchase scheme which is not a qualifying collective money purchase scheme.

(3) The asset classes are—

- (a) cash;
- (b) bonds creating or acknowledging indebtedness, issued by—
  - (i) a company;
  - (ii) His Majesty’s Government in the United Kingdom; or
  - (iii) the government of any country or territory other than the United Kingdom;
- (c) shares listed on a recognised stock exchange;
- (d) shares not listed on a recognised stock exchange;
- (e) infrastructure comprising of physical structures, facilities, systems or networks that provide or support essential public services and including water, gas and electricity networks, roads, telecommunications facilities, schools, hospitals and prisons;
- (f) property which does not fall within paragraph (e);
- (g) instruments creating or acknowledging indebtedness which do not fall within paragraph (b); and
- (h) any other assets which do not fall within paragraphs (a) to (g).

(4) In making the calculation required under paragraph (1), the trustees or managers of the relevant scheme must have regard to any guidance issued by the Secretary of State by virtue of paragraph 2(2)(b) of Schedule 18 to the Pensions Act 2014.

(5) Where relevant scheme assets are invested in a collective investment scheme, the trustees or managers of the relevant scheme must refer to the assets held by the collective investment scheme when making the calculation required by paragraph (1).

(6) In this regulation—

“collective investment scheme” has the same meaning as in regulation 1(2) (citation, commencement and interpretation) of the Occupational Pension Schemes (Investment) Regulations 2005;

“default arrangement” has the same meaning as in regulation 25;

“qualifying collective money purchase scheme” has the meaning given in regulation 2(1) of the Occupational Pension Schemes (Charges and Governance) Regulations 2015;

“recognised stock exchange” has the meaning given by section 1005 (meaning of “recognised stock exchange” etc) of the Income Tax Act 2007; and

“relevant scheme assets” means—

- (i) in relation to a relevant scheme which is not a qualifying collective money purchase scheme, the assets allocated to that scheme’s default arrangements; and

- (ii) in relation to a qualifying collective money purchase scheme, the assets held for the purposes of the scheme.]

#### Textual Amendments

**F38** Reg. 25A inserted (with application in accordance with reg. 1(7) of the amending S.I.) by [The Occupational Pension Schemes \(Administration, Investment, Charges and Governance\) and Pensions Dashboards \(Amendment\) Regulations 2023 \(S.I. 2023/399\)](#), regs. 1(3), **4(5)**

### [<sup>F39</sup> CHAPTER 3 **E+W+S**

#### RELEVANT MULTI-EMPLOYER SCHEMES

#### Textual Amendments

**F39** It is provided that Ch. 3 is inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **22**

#### Annual statement regarding governance: relevant multi-employer schemes **E+W+S**

**26.** Where a relevant scheme is a relevant multi-employer scheme, the statement prepared in accordance with regulation 23 must include such of the following additional information as is relevant to the scheme—

- (a) how the requirements of regulation 27(2) (majority of trustees and chair to be non-affiliated) have been met during the year;
- (b) where a trustee who is non-affiliated (within the meaning of regulations 27 and 28) was appointed during the year, details of how the requirement of regulation 28(1) (open and transparent appointment process) was met;
- (c) details of the arrangements in place during the year to meet the requirement of regulation 29 (representation of the views of members to the trustees or managers).

#### Appointment of trustees **E+W+S**

**27.—(1)** A relevant multi-employer scheme which is a trust scheme must have at least three trustees (but see also paragraphs (4) to (7)).

(2) A majority of the trustees of a relevant multi-employer scheme which is a trust scheme, including the chair of the trustees, must be non-affiliated (but see also paragraphs (4) to (7)).

[<sup>F40</sup>(2A) Paragraphs (1) and (2) override any provision of a relevant multi-employer scheme to the extent that it conflicts with those paragraphs.]

(3) Where there is a chair of the trustees at the time any other trustee is appointed, the chair must be consulted on the appointment.

(4) In relation to a company which is not a professional trustee body and which is a trustee of a relevant multi-employer scheme, this regulation applies as if—

- (a) the company were not a trustee of the scheme; and
- (b) each individual who is a director of the company and through whom the company exercises its functions as trustee, and any professional trustee body who is a director of the company, were a trustee of the scheme.

(5) A new relevant multi-employer scheme must meet the requirements of paragraphs (1) and (2) before the end of the period of three months starting with the date on which the scheme is established (or, if later, the date on which the scheme becomes a relevant multi-employer scheme which is a trust scheme).

(6) Where a trustee of a relevant multi-employer scheme—

(a) ceases to be a trustee for any reason; or

(b) in the case of a trustee who was non-affiliated, ceases to be non-affiliated,

the requirements of paragraphs (1) and (2) must be met before the end of the period of three months starting with the date on which the former trustee ceases to be a trustee or, as the case may be, the trustee ceases to be non-affiliated.

(7) Where a relevant multi-employer scheme was established, or became a relevant multi-employer scheme, before 6th April 2015 and the requirements of paragraphs (1) or (2) are not met on that date, the requirement in question must be met before the end of the period of three months starting with that date.

[  
F41(7A) Where a relevant multi-employer scheme was established by or under an enactment, other than a scheme established under section 67 of the Pensions Act 2008, before 6th April 2016 and the requirements of paragraphs (1) or (2) are not met on that date, the requirement in question must be met before the end of the period of six months starting with that date.]

(8) In this regulation and in regulation 28, “non-affiliated” means independent of any undertaking which provides advisory, administration, investment or other services in respect of the relevant multi-employer scheme (but see also regulation 28).

#### Textual Amendments

**F40** Reg. 27(2A) inserted (6.4.2016) by [The Occupational Pension Schemes \(Scheme Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/427\)](#), regs. 1, **7(1)**

**F41** Reg. 27(7A) inserted (6.4.2016) by [The Occupational Pension Schemes \(Scheme Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/427\)](#), regs. 1, **7(2)**

#### Appointment of trustees: trustees who are non-affiliated **E+W+S**

**28.**—(1) The appointment process for a trustee who is to count as non-affiliated for the purposes of regulation 27(2) must be open and transparent.

(2) For the purposes of paragraph (1), an appointment process which is open and transparent includes (but is not limited to) a process which—

(a) includes advertisement of the vacancy for a trustee in at least one appropriate national publication;

(b) includes engagement of the services of a recruitment agency to assist in the selection of candidates; or

(c) meets the requirements of section 241(2) or, as the case may be, 242(2) of the 2004 Act (nomination and selection of member-nominated trustees and member-nominated directors of corporate trustees).

(3) For the purposes of determining whether a person is non-affiliated, the following matters must be taken into account—

(a) whether the person—

- (i) is a director, manager, partner or employee of an undertaking which provides advisory, administration, investment or other services in respect of the scheme (a “service provider”) or an undertaking which is connected to a service provider; or
  - (ii) has been such a director, manager, partner or employee during the period of five years ending with the date of the person’s appointment as a trustee;
- (b) whether the person receives any payment or other benefit from a service provider, other than—
- (i) a payment or other benefit in respect of a role in the governance of a personal pension scheme in which the person is required to act in the interests of some or all of the scheme members; or
  - (ii) a payment in respect of the person’s role as trustee of the relevant multi-employer scheme;
- (c) whether or not, in the person’s relationship with a service provider, the person’s obligations to the service provider conflict with their obligations as a trustee of the relevant multi-employer scheme and whether their obligations as a trustee will take priority in the case of a conflict.
- (4) A trustee who is an individual is not to count as non-affiliated for the purposes of regulation 27(2) for—
- (a) any one period of more than five years; or
  - (b) subject to paragraph (5), more than ten years in total.
- (5) No period of appointment of a trustee who is an individual is to be taken into account for the purposes of paragraph (4)(b) if more than five years have elapsed since the trustee last held office as a trustee of the same relevant multi-employer scheme.
- (6) Paragraphs (1) to (5) apply to an individual who is a director of a corporate trustee and to whom regulation 27 applies as if he or she were a trustee as they apply to a trustee who is an individual.
- (7) Where a trustee who is to count as non-affiliated for the purposes of regulation 27(2) is a professional trustee body—
- (a) the trustee is not to count as non-affiliated for any one period of more than five years;
  - (b) a nominated individual must act as representative of the trustee; and
  - (c) the nominated individual may not act as representative of the trustee for more than ten years in total.
- (8) For the purposes of paragraph (3)(a), two undertakings are “connected” if they are—
- (a) part of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of section 1159(1) of the Companies Act 2006; or
  - (b) partnerships, each having the same persons as at least half of its partners.

## Representation of members **E+W+S**

**29.** The trustees or managers of a relevant multi-employer scheme must make arrangements to encourage members of the scheme, or their representatives, to make their views on matters relating to the scheme known to the trustees or managers.]

**Changes to legislation:**

There are currently no known outstanding effects for the The Occupational Pension Schemes (Scheme Administration) Regulations 1996, PART V .