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## 2014 CHAPTER 2

### *Cost control*

#### **Employer cost cap**

**12.—**(1) Scheme regulations for a scheme under section 1 which is a defined benefits scheme must set a rate, expressed as a percentage of pensionable earnings of members of the scheme, to be used for the purpose of measuring changes in the cost of the scheme.

[<sup>F1</sup>(1A) Subsection (1) must be complied with before the end of the period of one year beginning with the day on which the scheme’s first valuation under section 11 is completed.]

[<sup>F2</sup>(2) A reference in this section to “the employer cost cap” of a scheme under section 1 is a reference to the rate set by virtue of subsection (1) in relation to the scheme.]

(3) The employer cost cap [<sup>F3</sup>of a scheme under section 1] is to be set [<sup>F4</sup>, and the changes in the cost of such a scheme are to be measured,] in accordance with directions given by the Department of Finance <sup>F5</sup>....

(4) Directions given by the Department of Finance <sup>F6</sup>... may in particular specify—

- (a) how the first valuation under section 11 of a scheme under section 1 is to be taken into account in setting [<sup>F7</sup>the employer cost cap of the scheme] ;
- (b) the costs, or changes in costs, that are to be taken into account on [<sup>F8</sup>the second or any subsequent valuation] of a scheme under section 1 for the purposes of measuring changes in the cost of the scheme against [<sup>F9</sup>the employer cost cap of the scheme] ;
- (c) [<sup>F10</sup>whether and if so to what extent] costs or changes in the costs of any statutory pension scheme which is connected with a scheme under

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section 1 are to be taken into account for the purposes [F11] mentioned in paragraph (b)] .

[F12](d) that the data, methodologies and assumptions that are to be used for the purposes mentioned in paragraph (b) are to relate, to any extent, to—

- (i) the growth in the economy, or any sector of the economy, of the United Kingdom or any part of the United Kingdom,
- (ii) the growth in earnings of any group of persons over any period, or
- (iii) the rate of inflation (however measured) over any period.]

[F13(4A) The power to give directions by virtue of subsection (4)(d) is not affected by any statement made before 27 May 2021 by the Department of Finance, or any other department, relating to the data, methodologies and assumptions that are, or are not, to be used for the purposes mentioned in subsection (4)(b).]

(5) Regulations made by the Department of Finance F14 ... must make—

- (a) provision requiring the cost of a scheme [F15(determined, if and so far as provided for by virtue of subsection (4)(c), taking into account the costs of any connected scheme)] to remain within specified margins either side of the employer cost cap; and
- (b) for cases where the cost of a scheme would otherwise go beyond either of those margins, provision specifying a target cost within the margins.

(6) For cases where the cost of [F16a scheme under section 1] would otherwise go beyond [F17either of the margins specified under subsection (5)(a)] , scheme regulations may provide for—

- (a) a procedure for the responsible authority, the scheme manager (if different), employers and members (or representatives of employers and members) to reach agreement on the steps required to achieve the target cost for the scheme, and
- (b) the steps to be taken for that purpose if agreement is not reached under that procedure.

(7) The steps referred to in subsection (6) may include the increase or decrease of members' benefits or contributions.

[F18(7A) Directions given by the Department of Finance may specify the time at which any increase or decrease of members' benefits or contributions that is provided for under subsection (6) is to take effect.

(7B) Directions given by the Department of Finance may require that provision contained in scheme regulations under subsection (6) permits steps to be—

- (a) agreed by virtue of paragraph (a) of that subsection, or
- (b) determined by virtue of paragraph (b) of that subsection,

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only after the scheme actuary has certified that the steps would, if taken, achieve the target cost for the scheme.

(7C) Directions under subsection (7B) may specify—

- (a) the costs or changes in costs that are to be taken into account, or
- (b) the data, methodologies and assumptions that are to be used,

for the purposes of determining whether any steps would, if taken, achieve the target cost for the scheme.

(7D) In subsection (7B) “the scheme actuary”, in relation to a scheme under section 1, means the actuary who carried out, or is for the time being exercising actuarial functions in relation to, the valuation under section 11 by reference to which it has been determined that the costs of the scheme have gone, or may go, beyond either of the margins specified under subsection (5)(a).]

(8) Regulations made by the Department of Finance <sup>F19</sup>... under this section may—

- (a) include consequential or supplementary provision;
- (b) make different provision for different schemes.

(9) Regulations made by the Department of Finance <sup>F20</sup>... under this section are subject to negative resolution.

(10) Before giving directions or making regulations under this section the Department of Finance <sup>F21</sup>... must consult such persons (or representatives of such persons) as appear to the Department likely to be affected by the directions or regulations.

#### Textual Amendments

- F1** S. 12(1A) inserted (10.3.2022 for specified purposes) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), ss. 92\(11\), 131\(1\)\(2\)\(f\)](#)
- F2** S. 12(2) substituted (10.3.2022 for specified purposes) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), ss. 92\(12\), 131\(1\)\(2\)\(f\)](#)
- F3** Words in s. 12(3) inserted (10.3.2022 for specified purposes) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), ss. 92\(13\)\(a\), 131\(1\)\(2\)\(f\)](#)
- F4** Words in s. 12(3) inserted (10.3.2022 for specified purposes) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), ss. 92\(13\)\(b\), 131\(1\)\(2\)\(f\)](#)
- F5** Words in s. 12(3) omitted (10.3.2022 for specified purposes) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), ss. 92\(19\), 131\(1\)\(2\)\(f\)](#)
- F6** Words in s. 12(4) omitted (10.3.2022 for specified purposes) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), ss. 92\(19\), 131\(1\)\(2\)\(f\)](#)
- F7** Words in s. 12(4)(a) substituted (10.3.2022 for specified purposes) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), ss. 92\(14\)\(a\), 131\(1\)\(2\)\(f\)](#)
- F8** Words in s. 12(4)(b) substituted (10.3.2022 for specified purposes) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), ss. 92\(14\)\(b\)\(i\), 131\(1\)\(2\)\(f\)](#)

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- F9** Words in s. 12(4)(b) substituted (10.3.2022 for specified purposes) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(14)(b)(ii)**, 131(1)(2)(f)
- F10** Words in s. 12(4)(c) substituted (10.3.2022 for specified purposes) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(14)(c)(i)**, 131(1)(2)(f)
- F11** Words in s. 12(4)(c) substituted (10.3.2022 for specified purposes) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(14)(c)(ii)**, 131(1)(2)(f)
- F12** S. 12(4)(d) inserted (10.3.2022 for specified purposes) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(14)(d)**, 131(1)(2)(f)
- F13** S. 12(4A) inserted (10.3.2022 for specified purposes) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(15)**, 131(1)(2)(f)
- F14** Words in s. 12(5) omitted (10.3.2022 for specified purposes) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(19)**, 131(1)(2)(f)
- F15** Words in s. 12(5)(a) substituted (10.3.2022 for specified purposes) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(16)**, 131(1)(2)(f) (with s. 93(4)-(7))
- F16** Words in s. 12(6) substituted (10.3.2022 for specified purposes) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(17)(a)**, 131(1)(2)(f) (with s. 93(4)-(7))
- F17** Words in s. 12(6) substituted (10.3.2022 for specified purposes) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(17)(b)**, 131(1)(2)(f) (with s. 93(4)-(7))
- F18** S. 12(7A)-(7D) inserted (10.3.2022 for specified purposes) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(18)**, 131(1)(2)(f)
- F19** Words in s. 12(8) omitted (10.3.2022 for specified purposes) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(19)**, 131(1)(2)(f)
- F20** Words in s. 12(9) omitted (10.3.2022 for specified purposes) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(19)**, 131(1)(2)(f)
- F21** Words in s. 12(10) omitted (10.3.2022 for specified purposes) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 92(19)**, 131(1)(2)(f)

#### **Commencement Information**

- I1** S. 12(1)(6)(7)(10) in operation at 1.4.2015 by S.R. 2015/3, **art. 2(2)(f)**
- I2** S. 12(2)-(5)(8)(9) in operation at 28.4.2014 for specified purposes by S.R. 2014/123, **art. 4(b)**
- I3** S. 12(2)-(5)(8)(9) in operation at 1.4.2015 in so far as not already in operation by S.R. 2015/3, **art. 2(2)(f)**

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