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STATUTORY RULES OF NORTHERN IRELAND

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**2022 No. 121**

**The Occupational Pension Schemes (Master Trusts) Regulations (Northern Ireland) 2022**

**Citation and commencement**

1. These Regulations may be cited as the Occupational Pension Schemes (Master Trusts) Regulations (Northern Ireland) 2022 and shall come into operation on 6th April 2022.

**Interpretation and notices**

2.—(1) In these Regulations—

“the Act” means the Pension Schemes Act (Northern Ireland) 2021;

“active member” has the meaning given by Article 121(1) of the 1995 Order;

“additional charge” means an administration charge for advice, information or a service provided to a member, including where the member requests a transfer to another pension scheme;

“the Administration Regulations” means the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997<sup>(1)</sup>;

“arrangement” means an allocation of contributions to one or more investments;

“the Charges and Governance Regulations” means the Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015<sup>(2)</sup>;

“Code” means a code of practice issued by the Regulator;

“commencement date” means the date on which section 3 of the Act (prohibition on operating a scheme unless authorised) comes into operation for all purposes;

“the Companies Act” means the Companies Act 2006<sup>(3)</sup>;

“default arrangement” has the meaning given in regulation 3 of the Charges and Governance Regulations;

“discounted level” means a lower level of an administration charge which applies in particular circumstances, including—

(a) a lower level which applies to members from a particular employer, or

(b) a lower level which applies to a member according to the value of the member’s rights in the scheme;

“financial regulator” means the Financial Conduct Authority or the Prudential Regulatory Authority;

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(1) S.R. 1997 No. 94  
(2) S.R. 2015 No. 309  
(3) 2006 c. 46

“receiving scheme”, except in Schedule 5, means a pension scheme to which (subject to Part 4ZA(4) of the Pension Schemes Act (transfers and contribution refunds) and to provision made by regulations under section 24(2)(b) and (4) of the Act) members’ accrued rights and benefits under the scheme are proposed to be transferred;

“scheme year” means—

- (a) a year specified for the purposes of the scheme in any document comprising the scheme, or
- (b) if no year is specified under paragraph (a), a period of 12 months beginning on 1st April or on such other date as the trustees select;

“service provider” means a person providing advisory, administrative, investment or other services in respect of the scheme;

“third-party charge” means any administration charge imposed on or in respect of a member by a person other than the trustees;

“the TUPE Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006(5).

(2) Except where paragraph 1 of Schedule 5 provides otherwise, Article 277 of the 2005 Order (notification and documents in electronic form) is treated as applying to notices and notifications issued under these Regulations.

### **Connected employers**

3.—(1) For the purposes of section 1(3)(b) of the Act (Master Trust schemes: definition), an employer (“A”) is connected with another employer (“B”), and an employer which is a group undertaking of A is connected with an employer which is a group undertaking of B—

- (a) where A and B have separate legal identities but are structured so that the economic position of the shareholders of each is, as far as practicable, the same as if they held shares in a single company comprising the combined businesses of A and B;
- (b) where A employs scheme members jointly with B;
- (c) in respect of active members of the scheme, following a transfer of those members to A from B (but see paragraph (3));
- (d) where A holds or controls, or in the previous 6 months has held or controlled, at least 33% of the voting power in B;
- (e) where A is, or in the previous 6 months has been, engaged in a joint venture with B.

(2) In paragraph (1)—

“employer” means a person who employs or engages persons who are members of the scheme;

“group undertaking” has the meaning given by section 1161(5) of the Companies Act;

“joint venture” means an arrangement, contractual or otherwise, by which 2 or more parties undertake an economic activity that is subject to joint control.

(3) Where the transfer referred to in paragraph (1)(c) is not a relevant transfer as defined in regulation 2(6) of the TUPE Regulations, A and B (and their respective group undertakings) are connected for no more than 6 months beginning with the date of the transfer.

(4) See paragraph 50 of Schedule 4 to the Pension Schemes Act 2015 (c. 8)

(5) S.I. 2006/246

(6) There are further provisions about relevant transfers in regulation 3 of S.I. 2006/246, which was amended by regulation 5 of S.I. 2014/16

## Application for authorisation

4.—(1) The following provisions of this regulation apply for the purposes of section 4(5)(a) of the Act (application for authorisation).

(2) The other information to be included in an application, in relation to each person acting in a capacity mentioned in section 7(2) or (3) of the Act (fit and proper persons requirement), is—

- (a) in the case of an individual—
  - (i) the person’s full name;
  - (ii) the person’s date of birth;
  - (iii) the title and description of the person’s role in relation to the scheme;
  - (iv) the person’s residential address and address for correspondence, if different, including any change to the residential address in the 5 years before the date of the application for authorisation;
  - (v) a criminal conviction certificate obtained by means of an application in accordance with section 112(1) of the Police Act 1997(7) or, in relation to the law of a country outside the United Kingdom, any equivalent document;
- (b) in the case of a body corporate within the meaning given by section 1173(1) of the Companies Act—
  - (i) the full name of each person who exercises a function in respect of or on behalf of the body corporate acting in such a capacity;
  - (ii) the date of birth of each such person who is an individual;
  - (iii) the residential address and address for correspondence, if different, including any change to the residential address in the 5 years before the date of the application for authorisation;
- (c) in the case of any person, responses to a list of questions raised by the Regulator in the application to assess whether the person is a fit and proper person.

(3) The other information to be included in an application, in relation to whether the systems and processes used in running the scheme are sufficient, is—

- (a) in the case of a scheme in respect of which an annual statement of governance has been prepared as required by regulation 23(8) of the Administration Regulations, the most recent statement prepared in accordance with that regulation;
- (b) in the case of a scheme in respect of which an annual statement of governance as required by regulation 23 of the Administration Regulations has not previously been prepared, a document which contains, as far as practicable, the information which would be required to be included in a document prepared under that regulation in respect of the scheme;
- (c) in cases where a statement of investment principles(9) has been prepared in respect of a scheme in accordance with regulation 2 of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005(10), the most recent statement prepared in accordance with that regulation;

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(7) 1997 c. 50; section 112(1) was amended by Part 8 of Schedule 8 to the Policing and Crime Act 2009 (c. 26), section 80(1) of the Protection of Freedoms Act 2012 (c. 9) and Article 37(a) of S.I. 2012/3006

(8) Regulation 23 was added by regulation 17(1) of S.R. 2015 No. 309 and amended by regulation 5 of S.R. 2016 No. 192, regulation 2 of S.R. 2018 No. 53 and regulation 2(2) of S.R. 2021 No. 272

(9) “Statement of investment principles” is defined in Article 35(2) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)); Article 35 was substituted by Article 221 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

(10) S.R. 2005 No. 569; regulation 2 was amended by regulation 4 of S.R. 2018 No. 165 and regulation 2 of S.R. 2019 No. 115

- (d) detail of the systems and processes used, or intended to be used, in the running of the scheme, and whether they have been devised, applied or maintained by the scheme or a service provider, including details of the matters set out in Schedule 4.
- (4) An application for authorisation must be accompanied by a fee of—
  - (a) £41,000 for an existing scheme, or
  - (b) £23,000 for a scheme which is not an existing scheme.
- (5) In paragraph (4) “existing scheme” means a Master Trust scheme which was in operation before the commencement date.

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

5. Schedule 1 sets out the matters that the Regulator must take into account in assessing, for the purposes of section 7 of the Act (fit and proper persons requirement), whether a person involved in a Master Trust scheme is a fit and proper person.

### **Financial sustainability requirement**

6.—(1) Part 1 of Schedule 2 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 8 of the Act (financial sustainability requirement), whether it is satisfied that a Master Trust scheme is financially sustainable.

(2) Part 2 of Schedule 2 sets out the requirements to be met by a Master Trust scheme and each scheme funder relating to its financing.

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

- 7.—(1) A Master Trust scheme’s business plan must be submitted—
  - (a) in writing;
  - (b) in the format set out in a Code, and
  - (c) in accordance with any further requirements set out in a Code.
- (2) The business plan must contain the information listed in Part 1 of Schedule 3 (but see paragraph (6)).
- (3) The business plan must comply with the requirements set out in a Code in relation to the matters listed in Part 2 of Schedule 3 (but see paragraph (6)).
- (4) The information in the business plan must be provided as at the later of—
  - (a) a date chosen by the scheme strategist, but not earlier than 6 months before the date when the scheme’s trustees apply to the Regulator for authorisation, and
  - (b) where the 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.
- (5) If a revised business plan is submitted in accordance with section 9(6) of the Act (financial sustainability requirement: business plan), the business plan must indicate which parts of it have been revised.
- (6) The Regulator may give notice to the scheme’s trustees stipulating that a revised business plan submitted during a period when the circumstances in paragraph (7) apply—
  - (a) must state that those circumstances apply, and
  - (b) need not comply with paragraphs (2) and (3).
- (7) The circumstances are—
  - (a) that the scheme has experienced a triggering event;

- (b) that the trustees are pursuing continuity option 1 or 2, and
- (c) that the Regulator has approved an implementation strategy in respect of the scheme.

**Scheme funder requirements: activities**

8.—(1) A current or prospective scheme funder which wishes to be exempted from the requirement in section 10(3) of the Act (that the scheme funder should only carry out activities that relate directly to Master Trust schemes in relation to which it is a scheme funder) must submit the following information to the Regulator in the format required by the Regulator—

- (a) the reasons why the scheme funder wishes to be exempted from the requirement;
- (b) a description of those activities of the scheme funder which do not relate directly to the Master Trust scheme;
- (c) details of the financial support which the scheme funder will provide to the Master Trust scheme;
- (d) the following financial information in respect of the scheme funder as at the date on which the information is submitted to the Regulator under this paragraph—
  - (i) actual turnover, gross margin, overheads and operating profit for the previous 12 months;
  - (ii) a cash flow statement for the previous 12 months, including any undrawn overdraft facility or revolving credit facility;
  - (iii) forecast and actual profit and loss for the previous 12 months;
  - (iv) budget for the previous 12 months and any variation against that budget;
  - (v) cash resources;
  - (vi) cash flow forecast for the following 4 quarters;
  - (vii) operating costs;
  - (viii) inter-company loans and other forms of funding;
  - (ix) any significant risks to which the scheme funder is exposed and its strategy for mitigating them;
- (e) whether the scheme funder is regulated by a financial regulator and, if so—
  - (i) the identity of that regulator, and
  - (ii) the basis on which the scheme funder's financial arrangements with the Master Trust scheme have been accounted for in any capital reserves which the financial regulator requires the scheme funder to hold;
- (f) such other information as the Regulator may require in order to be satisfied that the scheme funder is giving adequate financial support to the Master Trust scheme.

(2) If a current or prospective scheme funder cannot provide some or all of the financial information referred to in paragraph (1)(d), it must give reasons for this to the Regulator.

(3) A current or prospective scheme funder may provide financial information in addition to that referred to in paragraph (1)(d) if it considers that the information would assist the Regulator in assessing the scheme funder's request for exemption from the requirement in section 10(3) of the Act.

(4) If the Regulator is satisfied—

- (a) that the scheme funder's arrangements for giving financial support to the scheme are sufficiently transparent, and

- (b) that, on the basis of the information listed in paragraph (1) and any additional information provided under paragraph (3), section 10(3) of the Act should not apply to the scheme funder,

the Regulator must notify the scheme funder to that effect, upon which the requirement in section 10(3) of the Act does not apply.

(5) The requirement in section 10(3) of the Act does not apply to the trustee corporation established by section 75 of the Pensions Act 2008<sup>(11)</sup>.

### **Scheme funder requirements: accounts**

9.—(1) Where a scheme funder is a charity, its accounts must meet the requirements in the Companies Act notwithstanding the provisions of any other enactment.

(2) If a scheme funder has no audited accounts at the time when it becomes a scheme funder of a Master Trust scheme, the Regulator may require a proportion, set out in a Code, of the assets required to meet the costs mentioned in section 8(3) of the Act (financial sustainability requirement) to be—

- (a) deposited in a separate account in the name of the trustees kept with a deposit taker as defined in Article 49(8A)<sup>(12)</sup> of the 1995 Order (other responsibilities of trustees, etc.) within the period of 3 months from the date on which it becomes a scheme funder of a Master Trust scheme, and
- (b) kept in that account until the date on which the scheme funder submits audited accounts to the Regulator.

(3) Regulations 4 and 8 to 10 of the Partnerships (Accounts) Regulations 2008<sup>(13)</sup> apply, and regulation 7 of those Regulations does not apply, to a scheme funder that is—

- (a) a Scottish partnership which is a limited partnership;
- (b) a Scottish partnership which is not a limited partnership, or
- (c) a comparable undertaking incorporated in a country or territory outside the United Kingdom,

irrespective of whether it is a qualifying partnership as defined in regulation 3 of those Regulations.

(4) The provisions of Part 16 of the Companies Act (audit) listed in paragraph (5) apply to a scheme funder which is—

- (a) an undertaking formed or incorporated under the law of a country or territory outside the United Kingdom, and
- (b) not otherwise subject to a requirement to produce audited accounts.

(5) The provisions are—

- (a) Chapter 1 (requirement for audited accounts);
- (b) section 495 (auditor's report on company's annual accounts);
- (c) section 496 (auditor's report on strategic report and directors' report);
- (d) section 498 (duties of auditor);
- (e) section 499 (auditor's general right to information);
- (f) section 503 (signature of auditor's report);

<sup>(11)</sup> 2008 c. 30

<sup>(12)</sup> Article 49(8A) was inserted by Article 154(5) of [S.I. 2001/3649](#) and amended by Article 4 of [S.I. 2013/472](#) and regulation 3 of [S.I. 2019/193](#)

<sup>(13)</sup> [S.I. 2008/569](#). Regulation 3 was substituted by regulation 4(3) of [S.I. 2013/2005](#). Regulation 4 was amended by regulation 4(4) of [S.I. 2013/2005](#). Regulation 7 was amended by paragraph 10 of Schedule 3 to [S.I. 2019/145](#). Regulation 9 was amended by regulation 14(2) of [S.I. 2016/649](#)

- (g) section 504 (senior statutory auditor);
- (h) section 505 (names to be stated in published copies of auditor's report);
- (i) section 506 (circumstances in which names may be omitted).

(6) The provisions listed in paragraph (5) apply for the purposes of that paragraph with any necessary modifications to take account of the corporate structure of the scheme funder.

(7) An auditor may be appointed for the purposes of the provisions listed in paragraph (5) only by the members of the scheme funder.

(8) In the provisions listed in paragraph (5) (as they apply for the purposes of that paragraph) and in paragraph (7), a reference to "members" is a reference to the persons within that undertaking who are comparable to members within the meaning given by section 112(1) and (2) of the Companies Act.

(9) If a triggering event within item 4, 5 or 6 of the table in section 21(6) of the Act has occurred in relation to a scheme, the Regulator may give notice to the scheme funder specifying the period within which the scheme funder must submit its accounts.

(10) A scheme funder that is partly or wholly funded by an undertaking must provide to the Regulator the accounts of that undertaking, produced in accordance with the Companies Act.

### **Systems and processes requirements**

**10.** Schedule 4 sets out the matters which the Regulator must take into account when deciding whether it is satisfied that the systems and processes used in running a Master Trust scheme are sufficient to ensure that the scheme is run effectively.

### **Continuity strategy: administration charges**

**11.—**(1) For the purposes of section 12(5) of the Act (continuity strategy requirement), the section of the continuity strategy setting out the levels of administration charges must set them out as follows.

(2) The section of the continuity strategy must set out all levels of administration charges in the current scheme year for each charge structure, including any discounted levels—

- (a) for each arrangement, including a default arrangement, and any different levels in relation to any one arrangement;
- (b) for any additional charges, including the reason for imposing them;
- (c) for any third-party charges, including the reason for imposing them;
- (d) for any other type of administration charge in the scheme, including the reason for imposing it.

(3) The levels must be set out on an annualised basis.

(4) Where there is a discounted level, the reason for charging the lower level must also be set out.

### **Continuity strategy: information**

**12.—**(1) The following information is specified for the purposes of section 12(6)(a) of the Act (continuity strategy requirement)—

- (a) the steps the trustees would take to decide which continuity option to pursue (if applicable) and the timescales for taking those steps;
- (b) details of—
  - (i) the main decisions and actions that would need to be taken to protect members' interests during a triggering event period;

- (ii) the person responsible for taking them, and
- (iii) the timescales for taking them;
- (c) details of strategies for communicating with employers and members, including—
  - (i) the information to be provided, and
  - (ii) the stages at which communication would take place;
- (d) details of strategies for communicating with the Regulator;
- (e) if applicable, details of how the trustees would choose the receiving scheme;
- (f) if applicable, details of how the scheme’s assets and members’ personal data would be transferred to the receiving scheme;
- (g) details of how members’ records are to be maintained during a triggering event period;
- (h) details of how assets held at scheme level would be reconciled with assets held at member level;
- (i) details of how the trustees would comply with any legal requirements and meet any legal costs arising from a triggering event;
- (j) a plan for making decisions on investments when a triggering event occurs, and for dealing with scheme investments during a triggering event period;
- (k) a plan for dealing with any outstanding contributions due from employers and members;
- (l) details of how the scheme’s administrative services would continue after a triggering event;
- (m) details of how service providers would be retained and paid for during a triggering event period;
- (n) details of how implementation of the continuity strategy would be funded.
- (2) A continuity strategy must be prepared—
  - (a) in writing;
  - (b) in the format set out in a Code, and
  - (c) in accordance with any further requirements set out in a Code.

### **Supervisory return: contents**

**13.** For the purposes of section 15(2) of the Act (requirement to submit supervisory return), the Regulator may require the following information to be included in a supervisory return, to the extent that it has not already been provided to the Regulator—

- (a) details of how trustees’ competence is being maintained, with particular reference to their compliance with the knowledge and understanding requirements in Articles 224, 225(14) and 226 of the 2005 Order;
- (b) details of the scheme strategist’s professional development;
- (c) where the scheme is an ear-marked scheme as defined in regulation 1(2) of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997(15)—
  - (i) the most recent accounts published in relation to each insurance company with which the trustees or managers of the scheme hold policies of insurance or annuity contracts falling within the description in that definition, and

(14) Article 225 was amended by paragraph 252(9) of Schedule 1 to [S.I. 2009/1941](#)

(15) [S.R. 1997 No. 40](#); the definition of “ear-marked scheme” was amended by paragraph 14(2) of the Schedule to [S.R. 1997 No. 160](#)



- (ii) where any such insurance company is part of a group in respect of which there is a duty to prepare group accounts under section 399 of the Companies Act(16), the most recent such accounts which have been published;
- (d) the scheme's most recent business plan;
- (e) details of the scheme's current position in relation to its objectives in the business plan;
- (f) any other information that is relevant to the authorisation criteria listed in section 5(3) of the Act (decision on application).

### **Significant events: notifying the Regulator**

**14.** The following are significant events which must be notified to the Regulator under section 16 of the Act (duty to notify Regulator)—

- (a) a change or addition to the persons involved with the scheme in the capacities listed in section 7(2) or (3) of the Act (fit and proper persons requirement), unless the change or addition is a triggering event;
- (b) an individual who is involved with the scheme in a capacity listed in section 7(2) or (3) of the Act, or whose involvement in the running of the scheme has been suspended while the individual's appointment is being considered—
  - (i) is convicted of an offence;
  - (ii) enters bankruptcy;
  - (iii) has—
    - (aa) a county court judgment registered;
    - (bb) in England or Wales a County Court judgment registered, or
    - (cc) in Scotland a decree of the Sheriff Court issued, against him or her;
  - (iv) is sanctioned by a regulator other than the Regulator;
  - (v) is disqualified as a company director;
  - (vi) has been the subject of an adverse judgment or has reached a settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;
  - (vii) has contravened any of the requirements or standards of a regulator, including the Regulator;
  - (viii) has a change of circumstances, through ill health or otherwise, which materially impairs the individual's ability to operate in a capacity listed in section 7(2) or (3) of the Act;
  - (ix) has any other change of circumstances which the person required to give notice considers likely to affect the Regulator's assessment under section 7 of the Act of whether the individual is a fit and proper person;
- (c) a significant change to the statement of investment principles(17);
- (d) a change that requires revision of the business plan under section 9(4) of the Act;
- (e) a failure to meet a key milestone, target, estimate or assumption in the business plan;
- (f) the scheme is unable or unlikely to meet its liabilities on demand;

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(16) Section 399 was amended by regulation 5(6) of [S.I. 2015/980](#) and regulation 3(4) of [S.I. 2016/1245](#)

(17) "Statement of investment principles" is defined in Article 35(2) of the Pensions (Northern Ireland) Order 1995; Article 35 was substituted by Article 221 of the Pensions (Northern Ireland) Order 2005

- (g) the scheme is unable or unlikely to meet the level of assets or liquidity agreed with the Regulator and set out in the business plan;
- (h) except where regulation 28(1) applies to a scheme, a change to the financial reporting period to be used in the accounts of the scheme or scheme funder;
- (i) a change in the financial information which a scheme funder has supplied to the Regulator with an application for exemption under regulation 8(1);
- (j) a failure of the systems or processes used in running the scheme which has a significant adverse effect on the security or quality of data or on service delivery;
- (k) a significant change to the systems and processes used in running the scheme, or in any person responsible for delivering key services to the scheme;
- (l) an investigation of the scheme, or of a person involved in the scheme, by a regulator or other competent authority inside or outside the United Kingdom.

### **Fixed and escalating penalties**

15.—(1) Where the Regulator issues a fixed penalty notice to a person under section 17(1) of the Act, the penalty is £500.

(2) Where the Regulator issues an escalating penalty notice to a person under section 18(1) of the Act, the daily rate is determined in accordance with the table,

(3) In the first column of the table, Day 1 is the day specified in the escalating penalty notice, in accordance with section 18(6)(d) of the Act, as being the date from which the penalty is payable, and subsequent days are numbered accordingly.

(4) The second column of the table shows the daily rate payable in respect of each day when the notice is in force.

(5) The table is—

<i>Day</i>	<i>Daily rate</i>
1	£1,000
2	£2,000
3	£3,000
4	£4,000
5	£5,000
6	£6,000
7	£7,000
8	£8,000
9	£9,000
10	£10,000
Each subsequent day	£10,000.

### **Triggering events: notification requirements**

16.—(1) For the purposes of section 22(6)(b) of the Act (notification requirements), if a triggering event occurs in relation to a Master Trust scheme, the trustees must notify the employers of the following matters—

- (a) the nature of the triggering event;
  - (b) except where regulation 28(3) applies to the scheme, that the trustees—
    - (i) have submitted an implementation strategy to the Regulator and the date on which they did so, or
    - (ii) will submit an implementation strategy to the Regulator by the date specified in regulation 17, and
    - (iii) in either case, will make the implementation strategy available to the employers after it has been approved by the Regulator;
  - (c) the timetable for future communications with the employers.
- (2) Notifications under section 22 of the Act must be given before the end of the period of—
- (a) 7 days (in the case of notifications to the Regulator), or
  - (b) 14 days (in the case of notifications to employers),
- beginning with the date specified in paragraph (3).
- (3) The specified date is—
- (a) the date on which the triggering event occurred (in the case of notifications made under section 22(2) or (6) of the Act), or
  - (b) the date on which the person under the duty to notify the Regulator became aware that the event had occurred (in the case of notifications made under section 22(4) of the Act).

#### **Implementation strategy: approval**

17. Where trustees are required to submit an implementation strategy to the Regulator for approval, it must be submitted before the end of the period of 28 days beginning with the date on which—

- (a) the decision to refuse or withdraw authorisation became final, in the case of a triggering event within item 1, 2 or 2A(18) of the table in section 21(6) of the Act, or
- (b) the triggering event occurred, in the case of a triggering event within any other item of the table in section 21(6) of the Act.

#### **Implementation strategy: administration charges**

18.—(1) The levels to be set out in the section relating to administration charges in the implementation strategy (“fixed charge levels”) must be set out and calculated using the following method.

(2) Where the triggering event period is more or less than a full year, the fixed charge levels apply on a pro rata basis.

(3) The method comprises the steps in paragraphs (4), (5) and (6).

(4) The first step is for the trustees to set out the levels of administration charges in paragraph (7) for the scheme year in which the triggering event occurred.

(5) The second step is for the trustees to set out the levels of administration charges in paragraph (7) for the scheme year preceding the one in which the triggering event occurred.

(6) The third step is for the trustees to—

- (a) compare each level from the set of levels for the scheme year in paragraph (4) with the corresponding level from the set of levels for the scheme year in paragraph (5), and

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(18) Item 2A of the table is substituted for item 2 by paragraph 10(c) of Schedule 2 to the Pension Schemes Act (Northern Ireland) 2021 in respect of Master Trust schemes in operation before the commencement date

- (b) take the lower of the 2 levels as the fixed charge level.
- (7) For the scheme year under paragraphs (4) and (5), the trustees must set out all levels of administration charges for each charge structure, including any discounted levels—
  - (a) for each arrangement, including a default arrangement, and any different levels in relation to any one arrangement;
  - (b) for any additional charges, including the reason for imposing them;
  - (c) for any third-party charges, including the reason for imposing them;
  - (d) for any other type of administration charge in the scheme, including the reason for imposing it.
- (8) The levels in paragraph (7) must be set out on an annualised basis.
- (9) Where there is a discounted level, the reason for charging the lower level must also be stated.

### **Implementation strategy: content**

- 19.—(1) An implementation strategy must contain—
- (a) details of—
    - (i) the main decisions and actions that will be taken, in relation to the continuity option being pursued, to address the triggering event that has occurred;
    - (ii) the person responsible for taking them, and
    - (iii) the timescales for taking them;
  - (b) a communications plan setting out what information will be communicated to employers and members and when, including information about—
    - (i) the continuity option being pursued, and
    - (ii) key milestones and when they were achieved;
  - (c) a plan setting out how members' assets are to be transferred (if applicable);
  - (d) a plan setting out how the integrity of members' records will be maintained during the triggering event period;
  - (e) a plan setting out how assets held at scheme level are to be reconciled with assets held at member level;
  - (f) details of how the trustees will comply with any legal requirements and meet any legal costs arising from the triggering event that has occurred and the continuity option being pursued;
  - (g) details of how scheme investments will be managed during the triggering event period;
  - (h) a plan for dealing with any outstanding contributions due from employers and members;
  - (i) details of how the scheme's administrative services will continue during the triggering event period and how the trustees will implement the continuity option being pursued;
  - (j) details of how service providers are to be retained and paid during the triggering event period;
  - (k) details of how carrying out the steps identified in the implementation strategy is to be funded, with particular reference to the continuity option being pursued.
- (2) An implementation strategy must be prepared—
- (a) in writing;
  - (b) in the format set out in a Code, and
  - (c) in accordance with any further requirements set out in a Code.

(3) After approval by the Regulator, the implementation strategy must be made available to the employers within the period of 7 days beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved.

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

**20.** Schedule 5 applies when the trustees of a Master Trust scheme—

- (a) are required, or decide, to pursue continuity option 1, and
- (b) propose to transfer members' accrued rights and benefits under the scheme.

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

**21.** For the purposes of section 25(4) of the Act (continuity option 2: resolving triggering event) (or, where applicable, of section 25(4)(d) as substituted by paragraph 5(c) of Schedule 2 to the Act), the notification must be given before the end of the period of 14 days beginning with the date on which the triggering event was, in the trustees' opinion, resolved.

#### **Periodic reporting requirement**

**22.—**(1) For the purposes of section 30(2) of the Act (periodic reporting requirement), the first report must be submitted before the end of the period of 14 days beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved.

(2) For the purposes of section 30(4)(b) of the Act, periodic reports must record—

- (a) decisions made by the trustees and participating employers about the receiving scheme, and
- (b) decisions made by the trustees in relation to arrangements under paragraph 12 of Schedule 5.

(3) The following information is specified for the purposes of section 30(4)(c) of the Act—

- (a) if the person preparing the periodic report is not an independent trustee appointed pursuant to Article 23(1)(19) of the 1995 Order (power to appoint independent trustees), the name and address of that person;
- (b) if an actuary is appointed under Article 47(1)(b) of the 1995 Order (professional advisers), the name and address of the actuary;
- (c) a statement as to whether any of the scheme's administrative services are being carried out by a person other than the trustees, including the name and address of that person;
- (d) the timescales for completing the steps identified in the implementation strategy;
- (e) details of whether any particular issues are affecting the trustees' ability to pursue or complete the steps identified in the implementation strategy.

(4) This regulation does not apply to a scheme to which regulation 28(3) applies.

#### **Fraud compensation**

**23.—**(1) This paragraph applies to a scheme when all the following conditions are met—

- (a) the scheme has been authorised by the Regulator under section 5 of the Act;
- (b) there are one or more scheme funders and a triggering event within item 4 or 5 of the table in section 21(6) of the Act has occurred in relation to every scheme funder;
- (c) the scheme is pursuing continuity option 1, and

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(19) Article 23 was substituted by Article 32(3) of the Pensions (Northern Ireland) Order 2005

- (d) the trustees have submitted the implementation strategy to the Regulator.
- (2) Where paragraph (1) applies, the following statutory provisions have effect in relation to the scheme with the following modifications—
- (a) in the 2005 Order omit—
- (i) Article 165(1)(c), (2) to (4), (6)(a), (8) and (9) (cases where fraud compensation payments can be made);
  - (ii) in Article 165(6) the words “the later of”;
  - (iii) in Article 165(10) the definition of “the relevant event”;
  - (iv) Article 166 (Board’s duties in respect of certain applications under Article 165);
  - (v) in Article 168(5) (fraud compensation payments)—
    - (aa) in sub-paragraph (c) the word “and”;
    - (bb) sub-paragraph (d);
  - (vi) paragraph 21 of Schedule 8 (issue of a notice under Article 166);
- (b) in regulation 5(3) of the Occupational Pension Schemes (Fraud Compensation Payments and Miscellaneous Amendments) Regulations (Northern Ireland) 2005<sup>(20)</sup> (applications for fraud compensation payments)—
- (i) in sub-paragraph (c) for “the employer” substitute “each scheme funder (as defined in section 39(1) of the Pension Schemes Act (Northern Ireland) 2021<sup>(21)</sup>)”;
  - (ii) for sub-paragraph (e) substitute—
    - “(e) the date the triggering event (as defined in section 39(1) of the Pension Schemes Act (Northern Ireland) 2021) occurred.”.

### Pause orders

**24.**—(1) Where a pause order containing a direction under section 31(5)(e) of the Act (pause orders) has effect in respect of a scheme, section 95<sup>(22)</sup> of the Pension Schemes Act (trustees’ duties after exercise of option) has effect in relation to that scheme as if for subsection (2)(b) of section 95 there were substituted—

- “(b) in the case of an application that relates to money purchase benefits, by the later of—
- (i) the last day of the 6 months beginning with the date of the application, or
  - (ii) where a pause order made under section 31(5) of the Pension Schemes Act (Northern Ireland) 2021 and containing a direction under section 31(5)(e) of that Act has effect in relation to that scheme before the last day of the period referred to in sub-paragraph (i), the last day of the 3 months beginning with the date on which the pause order ceases to have effect.”.

(2) In regulation 13(1) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996<sup>(23)</sup> (extension of time limits for payment of cash equivalents)—

- (a) at the end of sub-paragraph (ba) omit “or”;
- (b) after sub-paragraph (ba) insert—
  - “(bb) the scheme is, or within the 3 months immediately before the end of that period has been, the subject of a pause order under section 31(5) of the Pension Schemes

<sup>(20)</sup> S.R. 2005 No. 381 to which there are amendments not relevant to these Regulations

<sup>(21)</sup> 2021 c. 6 (N.I.)

<sup>(22)</sup> Section 95 was amended by paragraph 59 of Schedule 4 to the Pension Schemes Act 2015

<sup>(23)</sup> S.R. 1996 No. 619; regulation 13 was amended by regulation 4(3) of S.R. 2005 No. 114, regulation 5 of S.R. 2015 No. 164 and Article 27(2) of S.R. 2016 No. 158

Act (Northern Ireland) 2021 which contains a direction under section 31(5)(e) of that Act (no transfers etc of members' rights); or”;

(c) in sub-paragraph (c) for “(b) or (ba)” substitute “(b), (ba) or (bb)”.

### **Administration charges**

**25.**—(1) The administration charges that apply in relation to members of a Master Trust scheme must not include—

- (a) costs incurred as a result of buying, selling, lending or borrowing investments;
- (b) where a court order provides for the recovery by the trustees of costs incurred in complying with the order, the amount of those costs;
- (c) charges permitted by regulations made under Article 22 or 38 of the Welfare Reform and Pensions (Northern Ireland) Order 1999<sup>(24)</sup> (charges by pension arrangements in relation to earmarking orders and charges in respect of pension sharing costs);
- (d) costs solely associated with the provision of death benefits;
- (e) costs solely attributable to holding physical assets.

(2) For the purposes of this regulation, the costs solely attributable to holding a physical asset include—

- (a) the costs of managing and maintaining the asset;
- (b) fees for valuing the asset;
- (c) the cost of insuring the asset;
- (d) ground rent, charges, rates, taxes and utilities bills incurred in relation to the asset.

(3) In this regulation—

“commodity” means any goods of a fungible nature that are capable of being delivered, including metals and their ores and alloys, agricultural products and energy such as electricity, but not including cash or financial instruments (within the meaning of Article 3 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001<sup>(25)</sup>);

“physical asset” means an asset whose value depends on its physical form, including—

- (a) land;
- (b) buildings and other structures on land or sea;
- (c) vehicles, ships, aircraft or rolling stock, and
- (d) commodities.

### **Application of Part 1 of the Act**

**26.**—(1) Part 1 of the Act does not apply to schemes which have all the following characteristics—

- (a) on 20th October 2016, the scheme—
  - (i) was providing non-money purchase benefits (whether alone or in conjunction with other benefits), and
  - (ii) was used, or intended to be used, by 2 or more employers;

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<sup>(24)</sup> [S.I. 1999/3147 \(N.I.11\)](#); Article 22 was amended by paragraph 52 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and paragraph 109 of Schedule 29 and Schedule 30 to the Civil Partnership Act 2004 (c. 33)

<sup>(25)</sup> [S.I. 2001/544](#); the definition of “financial instrument” was inserted by Article 3(b) of [S.I. 2006/3384](#) and amended by Article 2(4) of [S.I. 2017/488](#) and Article 121(4) of [S.I. 2019/632](#)

- (b) membership of the scheme is limited to members, or former members, of a pension scheme established by statute for a specific occupational group, industry or profession;
- (c) the scheme ceased to accept new members on a date which is not later than 6 months after the commencement date.

(2) In paragraph (1)(c), a “new member” includes a person who was formerly a member of the scheme by virtue of a relationship with a previous employer, except where that person’s employment contract was transferred to the person’s current employer as a result of a relevant transfer as defined in regulation 2 of the TUPE Regulations.

**27.**—(1) Part 1 of the Act does not apply to schemes to which one or more of the following paragraphs apply.

(2) This paragraph applies where—

- (a) the scheme has only one member, and
- (b) the member is, or has been, employed by all the employers which use the scheme.

(3) This paragraph applies where the scheme is a relevant small scheme as defined in regulation 1(2ZB)(26) of the Administration Regulations, and—

- (a) the scheme has only one member, or
- (b) 50% or more of the trustees are members of the scheme.

(4) This paragraph applies where the only money purchase benefits provided by the scheme are attributable to one or more of the following—

- (a) additional voluntary contributions made by or on behalf of non-money purchase members of the scheme, in respect of a period when—
  - (i) they are active members of the scheme, or
  - (ii) they have ceased to be active members of the scheme because they have reached a maximum service limit in relation to the scheme;
- (b) money purchase rights or benefits transferred from other pension schemes in respect of persons who, at the time of the transfer, were active non-money purchase members of the receiving scheme, where those rights or benefits are closed to future accrual;
- (c) pension credits created pursuant to Article 26 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (creation of pension debits and credits).

**28.**—(1) This paragraph applies to a Master Trust scheme which—

- (a) was established before the commencement date;
- (b) provides both money purchase benefits and non-money purchase benefits, and
- (c) has more than one scheme funder, each of which is a participating employer.

(2) Where paragraph (1) applies to a scheme, Part 1 of the Act has effect in relation to that scheme as if the following provisions were omitted—

- (a) section 4(2)(b) (requirement to submit the latest accounts of each scheme funder);
- (b) section 7(2)(f) (requirement for the Regulator to assess whether the scheme funder is a fit and proper person);
- (c) in section 9(5) (requirement to approve the business plan and any revisions to it) the words “each scheme funder,”;
- (d) section 10(1), (2) and (3) (scheme funder requirements);



- (e) in section 12(8) (requirement to approve the continuity strategy and any revisions to it) the words “each scheme funder,”;
  - (f) section 14(3) and (4) (requirement for the scheme funder to submit accounts to the Regulator);
  - (g) section 16(2)(e) (duty on a scheme funder to notify the Regulator of significant events);
  - (h) section 39(3) (reference in section 10(3) to activities that relate directly to Master Trust schemes);
  - (i) in paragraph 4(2)(b) of Schedule 1 (requirement for the Regulator to notify the scheme funders that an action that contravenes a pause order has been validated) the words “scheme funders and”.
- (3) This paragraph applies to a scheme where—
- (a) paragraph (1) applies to the scheme;
  - (b) a triggering event within item 4, 5, 6 or 7 of the table in section 21(6) of the Act has occurred in relation to the scheme, and
  - (c) the trustees of the scheme have decided to pursue continuity option 2.
- (4) Where paragraph (3) applies to a scheme—
- (a) Part 1 of the Act has effect in relation to that scheme as if the following provisions were omitted—
    - (i) section 20(c) (duty to comply with section 26);
    - (ii) section 26 (approval of implementation strategy);
    - (iii) section 27 (content of implementation strategy);
    - (iv) section 28 (duty to pursue continuity option);
    - (v) section 30(4)(a) (periodic reporting requirement);
    - (vi) section 32 (prohibition on new employers during triggering event period);
    - (vii) section 33 (prohibition on increasing charges etc during triggering event period);
    - (viii) the definition of “implementation strategy” in section 39(1);
  - (b) section 31 of the Act has effect in relation to the scheme as if—
    - (i) in subsection (2) for “either of the following two conditions” there were substituted “the following condition”;
    - (ii) subsection (3) were omitted, and
    - (iii) in subsection (4) for “Condition 2” there were substituted “The condition”;
  - (c) regulation 22(3) does not apply, and the following provisions apply for the purposes of section 30(2) and (4)(c) of the Act (periodic reporting requirement)—
    - (i) the first report must be submitted before the end of the period of 28 days beginning with the date on which the triggering event occurred;
    - (ii) if the person preparing the periodic report is not an independent trustee appointed pursuant to Article 23(1) of the 1995 Order (power to appoint independent trustees), the report must contain the name and address of that person;
    - (iii) if an actuary is appointed under Article 47(1)(b) of the 1995 Order (professional advisers), the report must contain the name and address of the actuary;
    - (iv) the report must contain a statement as to whether any of the scheme’s administrative services are being carried out by a person other than the trustees, including the name and address of that person;

- (v) the report must state the actions being taken by the trustees in the absence of an implementation strategy, the timescales for completing them, and details of any particular issues affecting the trustees' ability to pursue or complete them.

**29.**—(1) 2 or more pension schemes are treated as a single Master Trust scheme for the purposes of Part 1 of the Act when paragraph (2) or (4) applies.

(2) This paragraph applies where—

- (a) none of the schemes is a Master Trust scheme;
- (b) none of the schemes has any of the characteristics set out in paragraph (3);
- (c) each scheme provides money purchase benefits (whether alone or in conjunction with other benefits);
- (d) each scheme is used by one employer, or by 2 or more employers which are connected with one another within the meaning given by section 1(3)(a) of the Act or regulation 3; and
- (e) the schemes are under common control.

(3) The characteristics are—

- (a) the scheme has only one member;
- (b) the scheme is a relevant small scheme as defined in regulation 1(2ZB) of the Administration Regulations and 50% or more of the trustees are members of the scheme;
- (c) the only money purchase benefits provided by the scheme are attributable to one or both of the following—
  - (i) additional voluntary contributions made by or on behalf of non-money purchase members of the scheme, in respect of a period when—
    - (aa) they are active members of the scheme, or
    - (bb) they have ceased to be active members of the scheme because they have reached a maximum service limit in relation to the scheme;
  - (ii) money purchase rights or benefits transferred from other pension schemes in respect of persons who, at the time of the transfer, were active non-money purchase members of the receiving scheme, where those rights or benefits are closed to future accrual;
- (d) the Regulator has appointed a trustee to the scheme pursuant to Article 7(27) of the 1995 Order (appointment of trustees) and the scheme is closed to future contributions, or
- (e) all the employers using the schemes are connected with one another within the meaning given by section 1(3)(a) of the Act or regulation 3.

(4) This paragraph applies where—

- (a) one of the schemes is a Master Trust scheme;
- (b) each other scheme is primarily promoted to current or former members of the Master Trust scheme for the purpose of providing decumulation options, and
- (c) all the schemes are under common control.

(5) For the purposes of this regulation, schemes are under common control where—

- (a) they have at least 3 of the following persons in common—
  - (i) a scheme funder (or a person who would be a scheme funder if the scheme were a Master Trust scheme);

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(27) Article 7 was amended by Article 31(1) of, and paragraph 30 of Schedule 10 and Schedule 11 to, the Pensions (Northern Ireland) Order 2005, section 106(1) of the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.)) and paragraph 3 of Schedule 19 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.))

- (ii) a scheme strategist (or a person who would be a scheme strategist if the scheme were a Master Trust scheme);
  - (iii) a person who promotes or markets the scheme;
  - (iv) a majority of trustees, or
- (b) they have 2 of the persons listed in sub-paragraph (a) in common and the schemes are—
- (i) provided by a common service provider, or
  - (ii) subject to the same rules.

### **Amendment of the Companies Act**

- 30.**—(1) The Companies Act is amended in accordance with paragraphs (2) to (5).
- (2) In section 384 (companies excluded from the small companies regime)—
- (a) in subsection (1)(b)(iii)(**28**) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021(**29**)”;
  - (b) in subsection (2)(f)(**30**) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”.
- (3) In section 467 (companies excluded from being treated as medium-sized)—
- (a) in subsection (1)(b)(iii)(**31**) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”;
  - (b) in subsection (2)(f)(**32**) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”.
- (4) In section 478(b)(iii)(**33**) (companies excluded from small companies exemption) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”.
- (5) In section 479B(b)(iii)(**34**) (companies excluded from the subsidiary companies audit exemption) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”.

### **Amendment of the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations**

- 31.**—(1) The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008(**35**) are amended in accordance with paragraphs (2) to (5).
- (2) In regulation 5 (LLPs subject to the small LLPs regime), in modified section 384(**36**) of the Companies Act (LLPs excluded from the small LLPs regime)—

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(28) Subsection (1) was amended by regulation 3(2)(a) of [S.I. 2007/2932](#), regulation 4(5)(a) of [S.I. 2015/980](#) and regulation 30(2)(a) of [S.I. 2018/1030](#)

(29) [2021 c. 6 \(N.I.\)](#)

(30) Subsection (2) was amended by regulation 3(2)(b) of [S.I. 2007/2932](#), regulation 2(2) of [S.I. 2013/2005](#), paragraph 113 of Schedule 18 to the Financial Services Act 2012 ([c. 21](#)), regulation 4(5)(b) of [S.I. 2015/980](#) and regulation 30(2)(b) of [S.I. 2018/1030](#)

(31) Subsection (1) was amended by paragraph 111 of Schedule 18 to the Financial Services Act 2012, regulation 2(7)(a) of [S.I. 2013/2005](#) and regulation 30(3)(a) of [S.I. 2018/1030](#)

(32) Subsection (2) was amended by regulation 3(3) of [S.I. 2007/2932](#), paragraph 111 of Schedule 18 to the Financial Services Act 2012, regulation 2(7)(b) and (c) of [S.I. 2013/2005](#), regulation 9(4) of [S.I. 2015/980](#) and regulation 30(3)(b) of [S.I. 2018/1030](#)

(33) Section 478 was amended by regulation 3(5) of [S.I. 2007/2932](#) and regulation 30(4) of [S.I. 2018/1030](#)

(34) Section 479B was inserted by regulation 7 of [S.I. 2012/2301](#) and amended by regulation 10(3) of [S.I. 2015/980](#) and regulation 30(5) of [S.I. 2018/1030](#)

(35) [S.I. 2008/1911](#)

(36) Section 384, as modified by regulation 5, was amended by regulation 3(2) of [S.I. 2013/2005](#), regulation 5(4) of [S.I. 2016/575](#) and regulation 31(2) of [S.I. 2018/1030](#)

- (a) in subsection (1)(b)(iii) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”;
  - (b) in subsection (2)(f) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”.
- (3) In regulation 26 (medium-sized LLPs), in modified section 467 of the Companies Act(37) (LLPs excluded from being treated as medium-sized)—
- (a) in subsection (1)(b)(iii) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”;
  - (b) in subsection (2)(f) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”.
- (4) In regulation 34 (exemption from audit: small LLPs), in modified section 478(b)(iii)(38) of the Companies Act (LLPs excluded from small LLPs exemption) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”.
- (5) In regulation 34A(39) (exemption from audit: qualifying subsidiaries), in modified section 479B(a)(iii)(40) of the Companies Act (LLPs excluded from the subsidiary LLPs audit exemption) after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”.

#### **Amendment of the Overseas Companies Regulations**

**32.** In regulation 38 of the Overseas Companies Regulations 2009(41) (duty to prepare accounts), in the introductory text, after “Act 2017” insert “or section 39(1) of the Pension Schemes Act (Northern Ireland) 2021”.

Sealed with the Official Seal of the Department for Communities on 16th March 2022

(L.S.)

*Anne McCleary*  
A senior officer of the Department for  
Communities

(37) Section 467, as modified by regulation 26, was amended by regulation 3(3) of [S.I. 2013/2005](#), regulation 17(4) of [S.I. 2016/575](#) and regulation 31(3) of [S.I. 2018/1030](#)

(38) Section 478, as modified by regulation 34, was amended by regulation 31(4) of [S.I. 2018/1030](#)

(39) Regulation 34A was inserted by regulation 20(4) of [S.I. 2012/2301](#)

(40) Section 479B, as modified by regulation 34A, was amended by regulation 22(3) of [S.I. 2016/575](#) and regulation 31(5) of [S.I. 2018/1030](#)

(41) [S.I. 2009/1801](#); regulation 38 was amended by regulation 32(2) of [S.I. 2018/1030](#)