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STATUTORY RULES OF NORTHERN IRELAND

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**2023 No. 7**

**The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2023**

**PART 1**

Preliminary provisions

**Citation and commencement**

1. These Regulations may be cited as the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2023 and shall come into operation on 30th January 2023.

**Interpretation and notices**

2.—(1) In these Regulations—

“the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993<sup>(1)</sup>;

“the 1995 Order” means the Pensions (Northern Ireland) Order 1995<sup>(2)</sup>;

“the 1999 Order” means the Welfare Reform and Pensions (Northern Ireland) Order 1999<sup>(3)</sup>;

“the 2005 Order” means the Pensions (Northern Ireland) Order 2005<sup>(4)</sup>;

“the 2021 Act” means the Pension Schemes Act 2021;

“active member” has the meaning given in 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;

“body corporate” has the meaning given in section 1173(1) of the Companies Act 2006<sup>(5)</sup>;

“central estimate” means an estimate that is not deliberately either optimistic or pessimistic, does not include any margin for prudence and does not incorporate adjustments to reflect the desired outcome;

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

“continuity option” means one of the continuity options listed in section 85(2) of the 2021 Act;

“continuity strategy” has the meaning given in section 68(2) of the 2021 Act;

“deferred member” has the meaning given in section 121(1) of the 1995 Order;

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(1) 1993 c. 49  
(2) S.I. 1995/3213 (N.I. 22)  
(3) S.I. 1999/3147 (N.I. 11)  
(4) S.I. 2005/255 (N.I. 1)  
(5) 2006 c. 46

“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;

“effective date” has the meaning given in section 71(6)(a) of the 2021 Act;

“multi-annual reduction” means an arrangement permitted under the scheme rules under which the trustees apply a reduction to the rate or amount of benefits provided under the scheme over multiple years following an actuarial valuation<sup>(6)</sup>;

“pensionable service” has the meaning given in section 121(1) of the 1995 Order;

“pensioner member” has the meaning given in section 121(1)(7) of the 1995 Order;

“relevant person” means a person falling within section 66(3) of the 2021 Act;

“the Regulator” means the Pensions Regulator;

“scheme year” means—

- (a) a year specified for the purposes of the scheme in any document comprising the scheme, or
- (b) if no such year is specified, 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, administration, investment or other services in respect of the scheme;

“survivor” has the meaning given in Article 67A(10)(a)(8) of the 1995 Order;

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

“viability certificate” has the meaning given in section 64(1)(b) of the 2021 Act;

“viability report” has the meaning given in section 64(1)(a) of the 2021 Act.

(2) Except where paragraph 1 of Schedule 6 provides otherwise, Article 277 (notification and documents in electronic form) of the 2005 Order is treated as applying to notices and notifications issued in accordance with these Regulations.

(3) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954<sup>(9)</sup> shall apply to these Regulations as it applies to an Act of the Assembly.

(4) Without prejudice to any other method of service authorised under section 24 of the Interpretation Act (Northern Ireland) 1954, the requirement to send any document under these Regulations may be met by sending it by ordinary post.

### **Connected employers**

3.—(1) For the purposes of section 100(2)(b) of the 2021 Act (interpretation of Part 2), 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 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.

<sup>(6)</sup> “Actuarial valuation” is defined in section 71(2) of the Pension Schemes Act 2021

<sup>(7)</sup> The definition of “pensioner member” was amended by Article 11(7) of [S.I. 2006/745](#)

<sup>(8)</sup> Article 67A was inserted by Article 239 of the Pensions (Northern Ireland) Order 2005

<sup>(9)</sup> [1954 c. 33 \(N.I.\)](#)

(2) In paragraph (1), “group undertaking” has the meaning given in section 1161(5) of the Companies Act 2006 (meaning of “undertaking” and related expressions).

## PART 2

### Schemes divided into sections

#### Qualifying schemes

4.—(1) For the purposes of section 54(8) of the 2021 Act (qualifying schemes), the characteristics prescribed are—

- (a) the rate or amount specified in the rules of the scheme by reference to which qualifying benefits are provided each year under the scheme;
- (b) the rate or amount of contributions paid by the employer;
- (c) the rate or amount of contributions paid by the employee;
- (d) the normal pension age as specified in the rules of the scheme.

(2) In this regulation, “normal pension age” has the meaning given in section 76(1) of the Pension Schemes Act 2015<sup>(10)</sup> (interpretation of Part 4).

#### Schemes divided into sections

5.—(1) Where an undivided scheme becomes a collective money purchase scheme that is divided into sections (a “divided scheme”), an authorisation previously granted in respect of the undivided scheme (the “existing authorisation”) applies to a section if—

- (a) that section of the divided scheme is a collective money purchase scheme by reason of section 52(2)(b) of the 2021 Act (collective money purchase benefits and schemes), and
- (b) the qualifying benefits provided under that section of the divided scheme have the same characteristics set out in regulation 4(1) as those provided under the undivided scheme.

(2) Where an undivided scheme becomes a divided scheme and there are two or more sections providing benefits with the same characteristics set out in regulation 4(1), the trustees of the undivided scheme must determine which section within the divided scheme the existing authorisation will apply to.

(3) Where paragraph (2) applies, the trustees of the undivided scheme must, as soon as reasonably practicable, provide the Regulator with the following information<sup>(11)</sup>—

- (a) the date from which the existing authorisation will apply to the section within the divided scheme, and
- (b) the name of the section within the divided scheme to which the existing authorisation will apply.

(4) In this regulation, “undivided scheme” has the meaning given in section 56(2) of the 2021 Act (schemes divided into sections).

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<sup>(10)</sup> 2015 c. 8

<sup>(11)</sup> This information is required to enable the Pensions Regulator to carry out its function under section 77(1) of the Pension Schemes Act 2021

## PART 3

### Authorisation

#### Authorisation: contents

6.—(1) This regulation applies for the purposes of section 59(4)(a) of the 2021 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 62(2) of the 2021 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) (aa) the person’s residential address and address for correspondence, if different, and
    - (bb) if there has been a change to the person’s residential address at any time in the period of 5 years before the date of the application for authorisation, their other residential addresses falling within that period;
  - (v) a criminal conviction certificate obtained by means of an application in accordance with section 112(1) of the Police Act 1997<sup>(12)</sup> (criminal conviction certificates) or, in relation to the law of a country outside the United Kingdom, any equivalent document;
- (b) where that person is acting in a capacity mentioned in section 62(2)(a) to (d) and that person is a body corporate—
  - (i) the full name of each individual who is performing, or who will be performing, the functions of that person in relation to the scheme in the exercise of a management or executive role in relation to that person;
  - (ii) the date of birth of each such individual;
  - (iii) (aa) the residential address of each such individual and their address for correspondence, if different, and
    - (bb) if there has been a change to each such individual’s residential address at any time in the period of 5 years before the date of the application for authorisation, their other residential addresses falling within that period;
- (c) in the case of any person, responses to a list of questions that may be asked by the Regulator, as part of an application for authorisation, 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 scheme is financially sustainable, is the information set out in Part 1 of Schedule 3.

(4) The other information to be included in an application, in relation to whether the systems and processes used for communicating with members and others are adequate, is details of the systems and processes used, or intended to be used, for the purposes of communicating with relevant persons, including details of the matters set out in Schedule 4.

<sup>(12)</sup> 1997 c. 50; section 112(1) was amended by section 79(1) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), sections 97(2) and 112(2) of, and 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), S.S.I. 2006/50 and S.I. 2012/3006

(5) 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) details of the systems and processes used, or intended to be used, in the running of the scheme, including details of the matters set out in Schedule 5;
- (b) whether the systems and processes used, or intended to be used, in the running of the scheme have been devised, applied or maintained by the scheme or a service provider.

(6) The other information to be included in an application is—

- (a) the name of the scheme;
- (b) the name of each employer in relation to the scheme;
- (c) the date on which it is proposed that the scheme will begin operating, subject to the Regulator's decision under section 60(1) of the 2021 Act (decision on application);
- (d) the contact details of the trustees making the application;
- (e) a copy of the rules of the scheme;
- (f) a copy of the scheme's trust deed.

(7) For the purposes of paragraph (6), the date on which it is proposed that the scheme will begin operating is the date proposed as the date on which, in relation to the scheme, a person is to first accept money as described in section 58(5)(a) or (b) of the 2021 Act.

#### **Application for authorisation: fee**

7.—(1) Subject to paragraphs (2) and (3), an application for authorisation of a collective money purchase scheme must be accompanied by a fee of £77,000.

(2) If an application for authorisation is made in respect of a section of a pension scheme and, at the time when the application is made another section of that pension scheme is an authorised collective money purchase scheme, the application must be accompanied by such fee as the Regulator may specify (but see paragraph (4)).

(3) If applications for authorisation are made in respect of two or more sections of the same pension scheme at the same time and, at the time when the applications are made no other section of that pension scheme is an authorised collective money purchase scheme—

- (a) one of the applications for authorisation must be accompanied by a fee of £77,000, and
- (b) all the other applications for authorisation must each be accompanied by such fee as the Regulator may specify (but see paragraph (4)).

(4) A fee specified under paragraphs (2) or (3)(b)—

- (a) must not exceed £77,000, and
- (b) must be calculated on a cost recovery basis.

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

8.—(1) Schedule 1 sets out the matters that the Regulator must take into account in assessing, for the purposes of section 62 of the 2021 Act (fit and proper persons requirement), whether a person is fit and proper to act in a capacity mentioned in section 62(2) of the 2021 Act.

(2) For the purposes of section 62(2)(e) of the 2021 Act, where a person in a capacity mentioned in paragraphs (a) to (d) of section 62(2) is a body corporate, the Regulator must assess whether each individual performing the functions of that person in relation to the scheme, in the exercise of a management or executive role, is a fit and proper person to act in relation to the scheme in that capacity.

### **Scheme design requirement**

**9.** Part 1 of Schedule 2 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 63 of the 2021 Act (scheme design requirement), whether it is satisfied that the design of a collective money purchase scheme is sound.

### **Viability report**

- 10.**—(1) A viability report must include the information specified in Part 2 of Schedule 2.
- (2) A viability report must be submitted—
- (a) in writing;
  - (b) in the format set out in a Code.
- (3) The following must be prepared or obtained in connection with a viability report—
- (a) a copy of the rules of the scheme concerning how the rate or amount of benefits provided under the scheme is to be determined;
  - (b) a document prepared by the scheme actuary to inform the trustee’s consideration as to whether the design of the scheme is sound for the purposes of preparing or reviewing the viability report;
  - (c) a document prepared by the trustees, having taken advice from an authorised person, setting out the strategy for investing the assets that arise or derive from the payments made by or in respect of members of the scheme, and
  - (d) any other information or documents as requested by the Regulator.
- (4) The document described at paragraph (3)(b) must include an explanation of—
- (a) the assumptions used by the scheme actuary in carrying out the tests in regulation 11(2) (c) or (d) (as the case may be) and how the use of those assumptions is justified;
  - (b) the conclusions reached by the scheme actuary on the matters contained in regulation 11(2), and
  - (c) the testing or modelling being considered by the trustees including the results of such testing or modelling.
- (5) A viability report must be prepared—
- (a) in the case of the scheme’s first viability report, by reference to information as at a date, chosen by the trustees, which must not be earlier than 10 months before the date when the trustees apply to the Regulator for authorisation;
  - (b) in the case of any subsequent viability report, by reference to information as at a date, chosen by the trustees, which must not be earlier than 10 months before the date when the trustees provide the report to the Regulator.
- (6) If a revised viability report is submitted in accordance with section 64(6)(b) of the 2021 Act (viability report), the viability report must indicate which parts of it have been revised and why.
- (7) In this regulation, “authorised person” means a person who is reasonably believed by the trustees of a collective money purchase scheme to be qualified by their ability in and practical experience of financial matters and to have the appropriate knowledge and experience of the management of the investments of such schemes.

### **Viability certificate**

- 11.**—(1) A viability certificate must contain the information specified in Part 3 of Schedule 2.
- (2) The scheme actuary must have regard to the following matters when providing a viability certificate and considering whether the design of the scheme is sound—

- (a) whether the rules of the scheme meet—
    - (i) the requirements of section 69 of the 2021 Act (calculation of benefits), and
    - (ii) the requirements of regulation 17;
  - (b) whether, in the opinion of the scheme actuary, the trustees have, in the member booklet, the statement of scheme design and the wording used in the most recent statements of benefits—
    - (i) accurately described the methods by which the scheme determines the rate or amount of benefits provided under the scheme;
    - (ii) accurately described estimates of the rate or amount of any future pension benefits payable under the design of the scheme;
    - (iii) accurately explained that the future pension benefits payable under the scheme are subject to annual adjustment in accordance with the scheme rules;
  - (c) in a case where the certificate is being provided in respect of a collective money purchase scheme the trustees of which are applying for authorisation under section 59 of the 2021 Act (application for authorisation), whether the scheme actuary is satisfied that—
    - (i) the first gateway test is met, and
    - (ii) the second gateway test is met;
  - (d) in a case where a collective money purchase scheme has begun operating and has at least one active member, whether the scheme actuary is satisfied that—
    - (i) the first live running test is met, and
    - (ii) the second live running test is met.
- (3) In a case where a final version of the member booklet, the statement of scheme design or the wording to be used in the statements of benefits has not been prepared, the reference to that document or wording, as the case may be, in paragraph (2)(b) is to the latest draft of that document or wording, as the case may be.
- (4) The first gateway test is met if the estimate of the projected average annual increase in the first 10 years' benefits, calculated on a central estimate basis—
- (a) by reference to the contributions to be made into the scheme over the first 10 years by or on behalf of or in respect of the expected active members into the scheme;
  - (b) by reference to the returns expected to be achieved on the available assets of the scheme during the remaining lives of the first 10 years' beneficiaries, calculated on a central estimate basis, and
  - (c) based on the premise that such projected annual increase is to be applied over the remaining lives of the first 10 years' beneficiaries,
- is no less than the estimate of the projected average annual increase in the prices for goods and services as measured by the consumer prices index, calculated on a central estimate basis.
- (5) For the purposes of the first gateway test—
- (a) the “first 10 years” means the period of 10 years beginning with the date on which the scheme is expected to begin operating;
  - (b) the “first 10 years' beneficiaries” means—
    - (i) the expected active members of the scheme during the first 10 years, and
    - (ii) the expected survivors in relation to the expected active members of the scheme during the first 10 years;
  - (c) the “first 10 years' benefits” means the estimated rate or amount of future pension benefits payable under the scheme which relate to the rights to benefits to be accrued under the

scheme over a period of 10 years beginning with the date on which the scheme is expected to begin operating.

(6) The second gateway test is met if the expected value of the rights to benefits of each active member which are expected to accrue under the scheme during the relevant period is at least equal in value to the amount of the contributions expected to be made by or on behalf of the member into the scheme in that period (not including contributions made by or on behalf of the employers other than any contributions made as a result of a salary sacrifice arrangement).

(7) The first live running test is met if the expected value of the rights to benefits of each active member which are expected to accrue under the scheme during the relevant period is at least equal in value to the amount of the contributions expected to be made by or on behalf of the member into the scheme in that period (not including contributions made by or on behalf of the employers other than any contributions made as a result of a salary sacrifice arrangement).

(8) For the purposes of paragraphs (6) and (7)—

- (a) the expected value of the rights to benefits which are expected to accrue is to be calculated using the methods and assumptions that would be expected to be used for an actuarial valuation of the scheme;
- (b) the “relevant period” is—
  - (i) in paragraph (6), a period of 5 years beginning with the date on which the scheme is expected to begin operating;
  - (ii) in paragraph (7), a period of 5 years beginning with the date on which the scheme is expected to begin operating.

(9) The second live running test is met if the weighted average of the EVs during the test period is not less than half, but not more than twice, the rate of contributions (expressed as a percentage of pensionable salary) made by or on behalf of or in respect of all active members into the scheme (including contributions made by or on behalf of the employers).

(10) For the purposes of the second live running test—

- (a) an EV in relation to an actuarial valuation is the expected value of the rights to benefits which are expected to accrue in the year following the effective date of that actuarial valuation (the “reference period”);
- (b) an EV is to be calculated in relation to each actuarial valuation—
  - (i) by reference to the effective date of that valuation;
  - (ii) using the methods and assumptions that were used for that actuarial valuation;
- (c) the EV for the period starting on the day the scheme began operating and ending the day before the effective date of the first actuarial valuation is the value that would have been calculated for an EV if an actuarial valuation with an effective date of the date that the scheme began operating had been obtained by the trustees, calculated using the methods and assumptions that would be expected to have been used for such an actuarial valuation;
- (d) an EV is expressed as a percentage of the pensionable salary on the effective date of the actuarial valuation to which it relates (or in the case of the EV referred to in sub-paragraph (c), on the date that the scheme began operating) of all active members on that date;
- (e) the EVs are weighted according to the proportion of the test period to which they relate;
- (f) where an EV (“EV2”) is calculated in relation to a period to which a prior EV (“EV1”) relates, the period to which EV1 relates for the purposes of sub-paragraph (e) is the period—
  - (i) starting the day following the effective date by reference to which EV1 was calculated, and



- (ii) ending the day before the period to which EV2 relates;
  - (g) subject to sub-paragraph (h), the test period is the period of 5 years ending with the last day of the reference period for the EV that has most recently been calculated;
  - (h) where any of the period referred to in sub-paragraph (g) falls before the scheme began operating, the test period is the period—
    - (i) starting on the date on which the scheme began operating, and
    - (ii) ending with the last day of the reference period for the most recent EV that has been calculated.
- (11) A viability certificate must be prepared—
- (a) in respect of the scheme’s first viability certificate, by reference to information as at a date to be agreed between the trustees and the scheme actuary, but not earlier than 10 months before the date when the trustees apply to the Regulator for authorisation;
  - (b) in respect of any subsequent viability certificate, by reference to information as at a date to be agreed between the trustees and the scheme actuary, but not earlier than 10 months before the date when the certificate is provided to the trustees.
- (12) In this regulation—
- “consumer prices index” means the consumer prices index calculated and published by the Office for National Statistics;
- “member booklet” means a document containing, in relation to a collective money purchase scheme, any basic information about the scheme that regulations made under section 109(13) of the 1993 Act (disclosure of information about schemes to members etc) require the trustees of the scheme to provide to members and, if it is practicable to do so, prospective members (each as defined for the purposes of those regulations);
- “relevant pension provision” has the meaning given in section 228ZA(7) of the Finance Act 2004(14);
- “salary sacrifice arrangement” has the meaning given to “relevant salary sacrifice arrangements” in section 228ZA(6) of the Finance Act 2004;
- “statement of benefits” means a document containing, in relation to a member of a collective money purchase scheme, any of the following information that regulations made under section 109 of the 1993 Act require the trustees of the scheme to provide to the members (as defined for the purposes of those regulations) of the scheme specified by those regulations—
- (a) an illustration of the amount of pension that may be payable to that member on their retirement date;
  - (b) the amount that represents the member’s share of the available assets of the scheme on a specific date, and
  - (c) other information related to that illustration;
- “statement of scheme design” means information explaining the design of a collective money purchase scheme that regulations made under section 97(1) of the 2021 Act (publication of information) require the trustees to publish.

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(13) Section 109 was amended by section 48 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)), paragraph 13 of Schedule 10 to the Pensions (Northern Ireland) Order 2005, paragraph 4 of Schedule 5 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)), section 43 of the Pensions Act (Northern Ireland) 2015, section 38 of the Pension Schemes Act (Northern Ireland) 2016 (c. 1 (N.I.)), paragraph 15(3) of Schedule 11 to the Pension Schemes Act 2021 and paragraph 15 of the Schedule to S.R. 2005 No. 434

(14) 2004 c. 12; section 228ZA was inserted by paragraph 10(1) of Schedule 4 to the Finance (No. 2) Act 2015 (c. 33)

(13) For the purposes of this regulation a collective money purchase scheme begins operating where, in relation to the scheme, a person first accepts money as described in section 58(5)(a) or (b) of the 2021 Act.

#### **Financial sustainability requirement**

**12.**—(1) Part 2 of Schedule 3 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 65 of the 2021 Act (financial sustainability requirement), whether it is satisfied that a collective money purchase scheme is financially sustainable.

(2) Part 3 of Schedule 3 sets out for the purposes of section 65(4)(b) of the 2021 Act the requirements to be met by a collective money purchase scheme in relation to its financing.

#### **Communication requirement**

**13.** Schedule 4 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 66 of the 2021 Act (communication requirement), whether it is satisfied that a collective money purchase scheme has adequate systems and processes for communicating with members and others.

#### **Systems and processes requirement**

**14.** Schedule 5 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 67 of the 2021 Act (systems and processes requirements), whether it is satisfied that the systems and processes used in running a collective money purchase scheme are sufficient to ensure that the scheme is run effectively.

#### **Continuity strategy: contents**

**15.**—(1) The following information is specified for the purposes of section 68(5)(a) of the 2021 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 beneficiaries, 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) details of how the trustees would choose a receiving scheme, if applicable;
- (f) details of how the trustees would choose the policy or policies mentioned in paragraph 2(2) of Schedule 6, if applicable;
- (g) details of how any periodic income to be paid in accordance with paragraph 7 of Schedule 6 would be calculated and paid, if continuity option 1 were to be pursued;
- (h) details of how the value of beneficiaries' accrued rights to benefits would be transferred to a receiving scheme, if applicable;

- (i) details of how beneficiaries' personal data would be transferred to a receiving scheme, if applicable;
- (j) details of how the payment of benefits would be secured in accordance with paragraph 2(2) of Schedule 6, if applicable
- (k) details of how beneficiaries' personal data would be transferred to an insurer, or insurers, mentioned in paragraph 2(2) of Schedule 6, if applicable;
- (l) details of how members' records are to be maintained during a triggering event period;
- (m) details of how the quantification of the value of each beneficiary's accrued rights to benefits under the scheme would be carried out;
- (n) details of how the trustees would comply with any legal requirements and meet any legal costs arising from a triggering event;
- (o) details of how the trustees would comply with any actuarial requirements and meet any actuarial costs arising from a triggering event;
- (p) a plan for making decisions concerning the scheme's investment strategy, when a triggering event occurs, and for dealing with scheme investments during a triggering event period;
- (q) a plan for dealing with any contributions due from employers and members;
- (r) details of how the scheme's administration services would continue after a triggering event;
- (s) details of how service providers would be retained and paid during a triggering event period;
- (t) details of how implementation of the continuity strategy would be funded;
- (u) an estimate of the costs of carrying out the actions set out in the continuity strategy.

(2) In deciding, for the purposes of section 68 of the 2021 Act (continuity strategy requirement), whether it is satisfied that a collective money purchase scheme has an adequate continuity strategy, the Regulator must take into account the robustness of any assumptions referred to in the following information which have been used for the purposes of estimating figures included in that information—

- (a) the plan mentioned at paragraph (1)(p), and
  - (b) the details mentioned at paragraph (1)(n), (o), (s) and (t).
- (3) 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.

(4) In this regulation—

“beneficiary” has the meaning given in section 97(8) of the 2021 Act (continuity option 1: discharge of liabilities and winding up);

“receiving scheme” means a pension scheme to which the value of a beneficiary's accrued rights to benefits under the scheme may be transferred in accordance with Schedule 6.

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

**16.—**(1) For the purposes of section 68(4) of the 2021 Act (continuity strategy requirement), with the exception of those administration charges mentioned in regulation 34(1), the section of the continuity strategy setting out the levels of administration charges must set them out as follows.

- (2) The section must set out for each charge structure all levels of administration charges in the current scheme year including—
- (a) for any additional charges, and the reason for imposing them;
  - (b) for any third-party charges, and the reason for imposing them;
  - (c) for any other type of administration charge in the scheme, and the reason for imposing it.
- (3) The levels must be set out on an annualised basis.

## PART 4

### Valuation and benefit adjustment

#### Calculation of benefits

**17.**—(1) For the purposes of section 69(4) of the 2021 Act (calculation of benefits), the rules of a collective money purchase scheme must contain the provisions set out in paragraphs (2) to (4).

(2) In relation to the determination of the value of the available assets of the scheme, the assets to be taken into account are the available assets of the scheme attributed to the scheme in the relevant accounts, excluding any resources invested in contravention of Article 40(1) of the 1995 Order (restriction on employer-related investments).

- (3) In relation to the determination of the required amount—
- (a) that the trustees must apply the methods set out in the scheme rules;
  - (b) that the mortality tables used and the demographic assumptions made, having regard to the main characteristics of the members as a group, must be based on a central estimate basis;
  - (c) that the discount rate must be determined using a central estimate of the estimated future returns on assets held by the scheme or expected to be held in the future;
  - (d) that the inflation assumptions used must be based on a central estimate basis.
- (4) In relation to the adjustment of the rate or amount of benefits provided under the scheme—
- (a) that the trustees must apply the methods set out in the scheme rules;
  - (b) that any such adjustment must be based on the actuarial valuation calculated by reference to the most recent effective date;
  - (c) that any such adjustment must be applied to all the members of the scheme without variation;
  - (d) that any such adjustment must be applied on the benefit adjustment date;
  - (e) that where an increase is required to the rate or amount of benefits provided under the scheme, before that increase can be applied the trustees must determine—
    - (i) the cost of funding that increase for the remaining lives of—
      - (aa) the beneficiaries of the scheme on the effective date;
      - (bb) the expected survivors in relation to the members of the scheme on the effective date;
    - (ii) that the value of the available assets of the scheme, as determined for the purposes of the actuarial valuation calculated by reference to the most recent effective date, is sufficient to meet the cost of funding that increase for the remaining lives of—
      - (aa) the beneficiaries of the scheme on the effective date;
      - (bb) the expected survivors in relation to the members of the scheme on the effective date.

- (5) For the purposes of paragraph (4)(e) the cost of funding an increase must—
- (a) be calculated on the basis that the increase will be applied each year;
  - (b) include the projected change in inflation.
- (6) Subject to paragraphs (3) and (4), it is for the trustees of a collective money purchase scheme to determine, having obtained advice from the scheme actuary, which assumptions are to be used for the purposes of determining the required amount on which the adjustment to the rate or amount of benefits provided under the scheme is based.
- (7) Paragraphs (8) to (13) apply where the scheme rules of a collective money purchase scheme permit the trustees to apply a multi-annual reduction.
- (8) The trustees of a collective money purchase scheme may apply a multi-annual reduction to the rate or amount of benefits provided under the scheme provided that—
- (a) the multi-annual reduction is to be applied in full on or before the third benefit adjustment date beginning with the benefit adjustment date which relates to the actuarial valuation as a result of which the multi-annual reduction is to be applied;
  - (b) the reduction applied in any year of the multi-annual reduction must not be greater than the reduction applied in the previous year of the multi-annual reduction.
- (9) The trustees of a collective money purchase scheme must not vary any planned adjustments under a multi-annual reduction after the first benefit adjustment date which relates to the actuarial valuation as a result of which the multi-annual reduction is to be applied.
- (10) Where there is a multi-annual reduction in effect and a subsequent actuarial valuation results in an increase in the rate or amount of benefits provided under the scheme, that increase is to be applied by the trustees, having obtained the advice of the scheme actuary, in addition to the planned reduction for that year under the multi-annual reduction which is in effect.
- (11) Where there is a multi-annual reduction in effect and a subsequent actuarial valuation results in a further reduction in the rate or amount of benefits provided under the scheme, that further reduction is to be applied by the trustees, having obtained the advice of the scheme actuary, in addition to the multi-annual reduction which is in effect.
- (12) Where there is a single multi-annual reduction in effect and a subsequent actuarial valuation results in a further reduction in the rate or amount of benefits provided under the scheme which is to be applied as a multi-annual reduction (the “second multi-annual reduction”)—
- (a) paragraph (8)(b) does not apply to the second multi-annual reduction;
  - (b) the total reduction applied in any year of the second multi-annual reduction must not be greater than the total reduction applied in the previous year of the second multi-annual reduction.
- (13) Where there are two (but not more than two) multi-annual reductions in effect and a subsequent actuarial valuation results in a further reduction in the rate or amount of benefits provided under the scheme which is to be applied as a multi-annual reduction (the “third multi-annual reduction”)—
- (a) paragraph (8)(b) does not apply to the third multi-annual reduction;
  - (b) the total reduction applied in any year of the third multi-annual reduction must not be greater than the total reduction applied in the previous year of the third multi-annual reduction.
- (14) In this regulation—
- “beneficiary” has the meaning given in section 87(8) of the 2021 Act (continuity option 1: discharge of liabilities and winding up);

“benefit adjustment date” means the date set out in the scheme rules on which an adjustment to the rate or amount of benefits provided under the scheme following an actuarial valuation must be applied each year;

“relevant accounts”, in relation to an actuarial valuation, are the audited accounts for the scheme which are prepared in respect of the period ending with the effective date of the actuarial valuation.

### **Advice of scheme actuary**

**18.** When advising the trustees of a collective money purchase scheme in accordance with section 70(1) of the 2021 Act (advice of scheme actuary), the scheme actuary must have regard to any guidance which is relevant to determining the matters mentioned in section 69(1) and (2) of the 2021 Act (calculation of benefits) published, and from time to time revised, by—

- (a) the Institute and Faculty of Actuaries (or its successor);
- (b) the Regulator.

### **Actuarial valuations**

**19.—**(1) The trustees of a collective money purchase scheme must obtain—

- (a) an actuarial valuation in which the effective date falls within the period of one year beginning with the day on which the scheme begins operating, and
- (b) subsequent actuarial valuations in which the effective date is not more than one year after the effective date of the previous actuarial valuation.

(2) At any time prior to the certification of the actuarial valuation by the scheme actuary<sup>(15)</sup>, the trustees of a collective money purchase scheme may, where the scheme rules so permit, instruct the scheme actuary—

- (a) to adjust the value of the available assets of the scheme to account for changes in asset values since the effective date;
- (b) to adjust the value of the required amount to account for changes to the scheme membership or other relevant matters since the effective date.

(3) Before instructing the scheme actuary to make an adjustment described in paragraph (2) the trustees of a collective money purchase scheme must obtain written advice from the scheme actuary.

(4) An actuarial valuation prepared in accordance with section 71(1) of the 2021 Act (actuarial valuations) must contain the following—

- (a) the methods and assumptions used for the actuarial valuation and how these have been derived;
- (b) the scheme actuary’s certification that the matters mentioned in section 71(2) of the 2021 Act have been determined in accordance with the scheme rules;
- (c) the total number of members enrolled in the scheme as at the effective date, including a breakdown of the number of active members, deferred members, pensioner members and survivors entitled to the payment of benefits under the scheme;
- (d) the average age of the active members, deferred members and pensioner members in the scheme as at the effective date;
- (e) the amount of all benefits in payment as at the effective date;
- (f) the effective date of the previous actuarial valuation;

<sup>(15)</sup> See section 72 of the Pension Schemes Act 2021

- (g) the value of the available assets of the scheme and the required amount set out in the previous actuarial valuation;
  - (h) whether an adjustment to the rate or amount of the benefits provided under the scheme was required following the previous actuarial valuation;
  - (i) where an adjustment to the rate or amount of the benefits provided under the scheme was required following the previous actuarial valuation, the details of the adjustment and the date the adjustment was applied;
  - (j) a statement as to whether any multi-annual reduction is in effect as at the effective date;
  - (k) where a multi-annual reduction is in effect, the details of the arrangement including—
    - (i) the duration of the multi-annual reduction;
    - (ii) the rate of reduction for each year of the arrangement;
    - (iii) confirmation that previous reductions have been applied in accordance with the details of the arrangement;
    - (iv) the number of years remaining until the multi-annual reduction is applied in full;
  - (l) in relation to the methods and assumptions used for the actuarial valuation—
    - (i) where there has been no change compared to the methods and assumptions used for the previous actuarial valuation, a statement setting out why the methods and assumptions continue to be appropriate for the scheme, or
    - (ii) where there has been a change compared to the methods and assumptions used for the previous actuarial valuation, a statement setting out the justification for any changes to the methods or assumptions used.
- (5) The requirements set out at paragraph (4)(f) to (l) do not apply to an actuarial valuation prepared in accordance with paragraph (1)(a).
- (6) The trustees of a collective money purchase scheme must obtain an actuarial valuation within a period of 10 months beginning with the effective date of the valuation.
- (7) The trustees of a collective money purchase scheme must secure that any actuarial valuation obtained by them is made available to the Regulator before the end of 10 days beginning with the date on which they obtain it.
- (8) In this regulation, the day on which a scheme begins operating is the day on which, in relation to the scheme, a person first accepts money as described in section 58(5)(a) or (b) of the 2021 Act.

### **Reporting requirements relating to benefit adjustments**

**20.** A report under section 73(2) of the 2021 Act (benefits adjustments) must, in addition to an explanation of why the adjustment was not made in accordance with the most recent actuarial valuation or (as the case may be) does not take effect in accordance with the scheme rules, contain the following information—

- (a) the level of any adjustments applied;
- (b) the level of the benefit adjustment that should have been applied in accordance with the most recent actuarial valuation or (as the case may be) the scheme rules;
- (c) any proposed remedial actions;
- (d) a timetable for implementing any remedial actions;
- (e) a statement as to whether the failure to apply the benefit adjustment in accordance with the most recent actuarial valuation or (as the case may be) the scheme rules will or is likely to result in any negative impact on the scheme's ongoing ability to provide the pension benefits under the design of the scheme;

- (f) where there is or is likely to be a negative impact on the scheme's ongoing ability to provide the pension benefits, details of any proposed actions to address this.

### **Powers of the Regulator**

**21.**—(1) A direction issued by the Regulator under section 74(2)(a) of the 2021 Act (powers of the Pensions Regulator) must set out the matters that the Regulator has considered in determining to issue the direction.

(2) A direction issued by the Regulator under section 74(2)(b) of the 2021 Act must set out the following—

- (a) the relevant matters that the Regulator has considered in determining to issue the direction;
- (b) a timetable for implementing any steps or actions specified by the Regulator.

## **PART 5**

### **Ongoing supervision**

#### **Supervisory return: contents**

**22.** For the purposes of section 78(2) of the 2021 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 (requirement for knowledge and understanding: individual trustees), 225(16) (requirement for knowledge and understanding: corporate trustees) and 226 (requirement for knowledge and understanding: supplementary) of the 2005 Order as applicable;
- (b) any other information that is relevant to the authorisation criteria listed in section 60(3) of the 2021 Act (decision on application).

#### **Significant events**

**23.**—(1) The following are significant events for the purposes of section 79 of the 2021 Act (duty to notify the Pensions Regulator of significant events)—

- (a) a proposal to change or add to the persons involved in the scheme in the capacities mentioned in section 62(2) of the 2021 Act (fit and proper persons requirement);
- (b) an individual who is involved with the scheme in a capacity mentioned in section 62(2) of the 2021 Act, or whose involvement in the scheme in that capacity has been suspended while the individual's appointment is being considered—
  - (i) is convicted of an offence;
  - (ii) enters bankruptcy;
  - (iii) has a County Court judgment registered, or 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, including 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 mentioned in section 62(2) of the 2021 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 62 of the 2021 Act of whether the individual is a fit and proper person;
  - (c) a significant change to the scheme's investment strategy;
  - (d) a proposal to change the design of the scheme including, but not limited to, the following—
    - (i) a proposal that the scheme should become a closed scheme;
    - (ii) where the scheme is a collective money purchase scheme for the purposes of section 52(2)(a) of the 2021 Act (collective money purchase benefits and schemes) and the scheme is not divided into sections, a proposal for the scheme to become a scheme that is divided into sections;
  - (e) where the scheme is a collective money purchase scheme for the purposes of section 52(2)(b) of the 2021 Act, a proposal to provide qualifying benefits, or other benefits, under a new section of the qualifying scheme;
  - (f) a failure to obtain a viability certificate in accordance with section 64(4) or (5) of the 2021 Act (viability report);
  - (g) an event which, in the opinion of a person mentioned in section 79(2) of the 2021 Act (duty to notify the Pensions Regulator of significant events), undermines, or is likely to undermine, the soundness of the design of the scheme;
  - (h) an event which has resulted or, in the opinion of a person mentioned in section 79(2) of the 2021 Act, is likely to result in the scheme being unable to meet the requirements of Part 3 of Schedule 3;
  - (i) the scheme is unable or, in the opinion of a person mentioned in section 79(2) of the 2021 Act, is unlikely to be able to meet its running costs;
  - (j) in the opinion of a person mentioned in section 79(2) of the 2021 Act, the scheme will be unable or is unlikely to be able, to meet the costs mentioned in section 65(2)(b) of the 2021 Act (financial sustainability requirement);
  - (k) 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;
  - (l) a failure of the systems and processes for communicating with relevant persons which has a significant adverse effect on communications with relevant persons;
  - (m) a proposal to make a significant change to the systems and processes used in running the scheme (including the systems and processes for communicating with relevant persons), including a change in who the persons are that are responsible for delivering key services to the scheme;
  - (n) 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.
- (2) In this regulation, the significant events listed in paragraph (1)(a), (c) to (e), (g), (h) and (k) to (n) are specified significant events.

(3) For the purposes of section 79(4) of the 2021 Act, a person who is required to give notice of a specified significant event and who is aware of the specified further information relating to that event set out in paragraphs (4) to (8) as applicable, must provide the specified further information, in writing, to the Regulator, as soon as reasonably practicable.

(4) Where the specified significant event is a proposal or a change mentioned in paragraph (1)(a), (c) to (e), or (m), the specified further information relating to that event is—

- (a) details of the proposal or change;
- (b) the reasons for the proposal or change;
- (c) the objectives of the proposal or change;
- (d) how the interests of members of the scheme have been taken into account.

(5) Where the specified significant event is that an event mentioned in paragraph (1)(g) has occurred, the specified further information relating to that event is—

- (a) the nature of the event;
- (b) the reasons why the person mentioned in paragraph (1)(g) is of the opinion that the event undermines, or is likely to undermine, the soundness of the design of the scheme.

(6) Where the specified significant event is that an event mentioned in paragraph (1)(h) has occurred, the specified further information relating to that event is—

- (a) the nature of the event;
- (b) if the person mentioned in paragraph (1)(h) is of the opinion that the event is likely to result in the scheme being unable to meet the requirements of Part 3 of Schedule 3, the reasons for this opinion.

(7) Where the specified significant event is that a failure mentioned in paragraph (1)(k) or (l) has occurred, the specified further information relating to that event is—

- (a) the nature of the failure;
- (b) the contact details of the person with responsibility for addressing the effect of the failure.

(8) Where the specified significant event is 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, the specified further information relating to that event is—

- (a) the nature of the investigation;
- (b) the contact details of the regulator or other competent authority.

(9) In this regulation, “closed”, in relation to a collective money purchase scheme, means closed to new contributions or new members (or both).

### **Risk notices**

**24.**—(1) The date referred to in section 80(3)(b) of the 2021 Act (risk notices) must fall before the end of 14 days beginning with the date on which the risk notice was issued.

(2) The date referred to in section 80(4) of the 2021 Act must fall before the end of 7 days beginning with the date on which the further notice was issued.

(3) For the purposes of section 80(7)(a) of the 2021 Act, the first progress report must be submitted before the end of 14 days beginning with the date on which the Regulator notifies the trustees that it is satisfied that the proposals in the resolution plan are likely to be adequate to resolve the issue of concern.

(4) A risk notice must—

- (a) state that the Regulator considers—

- (i) that the issue identified in the notice is an issue of concern in relation to the scheme, and
- (ii) that the scheme will breach the authorisation criteria, or is likely to breach them, if the issue is not resolved;
- (b) contain a statement of the Regulator's grounds for its consideration and of the evidence on which its consideration is based, and
- (c) explain that Article 10(17) of the 1995 Order (civil penalties) applies to a trustee who fails to comply with the notice.

## PART 6

### Triggering events and continuity options

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

**25.**—(1) For the purposes of section 84(4)(b) of the 2021 Act (notification of triggering events), a trustee who is required to give a required notification under section 84(3) of the 2021 Act must notify each employer and any relevant former employer of the following matters—

- (a) 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 before the end of the period specified in regulation 26, and
    - (iii) in either case, will make the implementation strategy available to each employer and any relevant former employer after it has been approved by the Regulator;
  - (b) the timetable for future communications with each employer and any relevant former employer.
- (2) Notifications under section 84 of the 2021 Act must be given before the end of—
- (a) 7 days (in the case of notifications to the Regulator);
  - (b) 14 days (in the case of notifications to an employer or any relevant former employer), or
  - (c) 2 days (in the case of notifications to trustees),
- 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—
    - (i) notifications given under section 84(1) of the 2021 Act—
      - (aa) by the employer or relevant former employer, in respect of an item 4 triggering event;
      - (bb) by the person who made the decision, in respect of an item 6 or 8 triggering event;
    - (ii) notifications given under section 84(7) or (8) of the 2021 Act;
  - (b) the date on which the employer or relevant former employer becomes aware that they are unlikely to continue as a going concern, in the case of notifications given under

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(17) Article 10 was amended by paragraph 9 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, Schedule 11 to the Pensions (Northern Ireland) Order 2005 and paragraph 15 of Schedule 8 to the Pension Schemes Act 2021

section 84(1) of the 2021 Act by the employer or relevant former employer in respect of an item 5 triggering event;#

- (c) the date on which the person under the duty to notify became aware that the event had occurred, in the case of—
  - (i) notifications given under section 84(1) of the 2021 Act which are not mentioned in sub-paragraph (a)(i);
  - (ii) notifications given under section 84(3) or (9) of the 2021 Act.

### **Implementation strategy: approval**

**26.** Where the trustees of a collective money purchase scheme are required to submit an implementation strategy to the Regulator for approval, it must be submitted before the end of 28 days beginning with the date on which—

- (a) the decision to withdraw authorisation becomes final, in relation to an item 1 or 2 triggering event, or
- (b) the triggering event occurred, in relation to an item 3 to 9 triggering event.

### **Implementation strategy: charges**

**27.—(1)** The information to be included in the implementation strategy about the levels of administration charges in relation to members of the scheme—

- (a) must relate to the levels of administration charges for the scheme years specified in paragraph (2), and
  - (b) with the exception of those administration charges mentioned in regulation 34(1) (administration charges during a triggering event period), must be set out in accordance with paragraphs (3) and (4).
- (2) The specified scheme years are—
- (a) the scheme year in which the triggering event occurred, and
  - (b) the scheme year preceding the one in which the triggering event occurred.
- (3) The trustees must set out for each charge structure all levels of administration charges including—
- (a) for any additional charges, and the reason for imposing them;
  - (b) for any third-party charges, and the reason for imposing them;
  - (c) for any other type of administration charge in the scheme, including the reason for imposing it.
- (4) The levels in paragraph (3) must be set out on an annualised basis.
- (5) For the purposes of section 96(3)(b) of the 2021 Act (prohibition on increasing charges etc during triggering event period), during a triggering event period for a collective money purchase scheme, the trustees must not impose administration charges on or in respect of members at levels above the fixed charge level.
- (6) For the purposes of paragraph (5) the fixed charge level is calculated as follows—
- (a) the trustees must compare each level from the levels set out in the implementation strategy for the scheme year in paragraph (2)(a) with the corresponding level from the levels set out for the scheme year in paragraph (2)(b), and take the lower of the two levels as the fixed charge level, and
  - (b) where the triggering event period is more or less than a full year, the levels in sub-paragraph (a) must be applied on a pro rata basis.

### **Implementation strategy: content**

- 28.—(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 beneficiaries and when, including information about—
    - (i) the continuity option being pursued, and
    - (ii) key milestones and when they are to be (or were) achieved;
  - (c) if continuity option 1 is being pursued, a plan setting out how the scheme’s liability to each beneficiary in respect of the value of their accrued rights to benefits under the scheme is to be discharged under the proposal formulated by the trustees in accordance with section 87(1)(b) of the 2021 Act (continuity option 1: discharge of liabilities and winding up);
  - (d) if continuity option 1 is being pursued, details of how any periodic income to be paid in accordance with paragraph 7 of Schedule 6 would be calculated and paid;
  - (e) a plan setting out how the integrity of members’ records will be maintained during the triggering event period;
  - (f) details of how assets held by the scheme would be converted into a cash equivalent of the value of each beneficiary’s accrued rights to benefits under the scheme, if applicable;
  - (g) 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;
  - (h) details of how the trustees will comply with any actuarial requirements and meet any actuarial costs arising from the triggering event that has occurred and the continuity option being pursued;
  - (i) details of how scheme investments will be managed during the triggering event period;
  - (j) a plan for dealing with any outstanding contributions due from employers and members;
  - (k) details of how the scheme’s administration services will continue during the triggering event period;
  - (l) details of how service providers are to be retained and paid during the triggering event period;
  - (m) details of how carrying out the steps identified in the implementation strategy, including steps relating to the continuity option being pursued, is to be funded;
  - (n) details of when and how the process of determining the rate or amount of benefits provided under the scheme is to be carried out in accordance with section 69 of the 2021 Act (calculation of benefits), if applicable.
- (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 and any relevant former employer in relation to the scheme before the end of 7 days beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved.

### **Continuity option 1: discharge of liabilities and winding up**

**29.** Schedule 6 applies when the trustees of a collective money purchase scheme are required, or decide, to pursue continuity option 1.

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

**30.** For the purposes of section 88(3)(b) of the 2021 Act (continuity option 2: resolving triggering event), the notification to the Regulator setting out how the trustees consider that a triggering event (“the relevant event”) has been resolved must be given before the end of 14 days beginning with the later of—

- (a) the date on which the relevant event was, in the trustees’ opinion, resolved, and
- (b) if any other event within the second column of the triggering events table has occurred in relation to the scheme since the occurrence of the relevant event, the date on which such other events have, in the trustees’ opinion, been resolved.

### **Continuity option 3: conversion to closed scheme**

**31.—(1)** For the purposes of section 89(3) of the 2021 Act (continuity option 3: conversion to closed scheme), the notification to the Regulator under section 89(2) of the 2021 Act must be given before the end of 28 days beginning with the date on which the trustees consider that preparations for the conversion of the scheme into a closed scheme are complete.

(2) Preparations for the conversion of the scheme into a closed scheme are not complete unless the steps identified in the implementation strategy, in order to carry out continuity option 3, are complete.

### **Periodic reporting requirement**

**32.—(1)** For the purposes of section 94(2) of the 2021 Act (periodic reporting requirements) the first report must be submitted to the Regulator before the end 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 94(4)(b) of the 2021 Act, the reports must record—

- (a) decisions made by the trustees and employers concerning the continuity option being pursued;
- (b) where continuity option 1 is being pursued, decisions made by the trustees and employers in relation to the proposal formulated in accordance with section 87(1)(b) of the 2021 Act (continuity option 1: discharge of liabilities and winding up) for discharging the scheme’s liability to each beneficiary.

(3) The following information is specified for the purposes of section 94(4)(c) of the 2021 Act—

- (a) if the person preparing the report is not an independent trustee appointed pursuant to Article 23(1)(**18**) of the 1995 Order (power to appoint independent trustees), the name and address of that person;
- (b) the name and address of the scheme actuary;

- (c) a statement as to whether any of the scheme's administration services are being carried out by a person other than a trustee, and if so the name and address of that person;
- (d) a statement as to whether any of the scheme's administration services are being carried out by a person other than a trustee, and if so the name and address of that person;
- (e) details of whether any particular issues are affecting the trustees' ability to pursue or complete the steps identified in the implementation strategy.

### **Pause orders**

**33.** Where a pause order containing a direction under section 95(5)(e) of the 2021 Act (pause orders) has effect in respect of a scheme, section 95(19) of the 1993 Act (trustees' duties after exercise of option) has effect in relation to that scheme as if for subsection (2)(c) of section 95 there were substituted—

- “(c) in the case of an application which relates to money purchase benefits that are collective money purchase benefits, by the later of—
  - (i) the last day of the period of 6 months beginning with the date of the application or such longer period beginning with that date as may be prescribed, and
  - (ii) where a pause order made under section 95(2) of the Pension Schemes Act 2021 and containing a direction under section 95(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 period of 3 months beginning with the date on which the pause order ceases to have effect.”.

### **Administration charges during a triggering event period**

**34.—(1)** Section 96(1) and (2) of the 2021 Act (prohibition on increasing charges etc during triggering event period) do not apply in relation to the following administration charges—

- (a) costs incurred as a result of the buying, selling, lending or borrowing of 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 (charges by pension arrangements in relation to earmarking orders) or 38 (charges in respect of pension sharing costs) of the 1999 Order;
- (d) costs solely associated with the provision of death benefits;
- (e) costs solely attributable to holding physical assets.

(2) Section 96(2) of the 2021 Act does not apply, in respect of a receiving scheme that is a Master Trust scheme, in relation to any administration charges imposed on or in respect of a member of the scheme in relation to a member's flexi-access drawdown fund.

(3) For the purposes of section 96(6) of the 2021 Act, section 96 of the 2021 Act, with the exception of subsection (1), applies to a relevant alternative receiving scheme in the same way as it applies to a receiving scheme that is a Master Trust scheme.

(4) For the purposes of paragraph (3), a relevant alternative receiving scheme is a receiving scheme that—

- (a) has the characteristics mentioned in paragraph 2(1)(a) of Schedule 6, and
- (b) is not a collective money purchase scheme or a Master Trust scheme.

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(19) Section 95(2) was substituted by paragraph 59(2) of Schedule 4 to the Pension Schemes Act 2015 (c. 8) and amended by section 76(4) of the Pension Schemes Act 2021 (c. 1)

(5) For the purposes of paragraph (1)(e), 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.

(6) 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>(20)</sup>);

“member’s flexi-access drawdown fund” has the meaning given in paragraph 1(1) of Schedule 6;

“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;

“receiving scheme” has the meaning given in section 96(8) of the 2021 Act.

## PART 7

### Collective money purchase benefits – amendments to subordinate legislation

#### **Collective money purchase benefits – amendments to subordinate legislation**

**35.** Schedule 7 contains amendments to subordinate legislation in relation to pension schemes providing collective money purchase benefits.

## PART 8

### Revocation

#### **Revocation**

**36.** The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2022<sup>(21)</sup> are revoked.

<sup>(20)</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 regulation 121(4) of [S.I. 2019/632](#)

<sup>(21)</sup> [S.R. 2022 No. 191](#)



Sealed with the Official Seal of the Department for Communities on 27th January 2023

(L.S.)

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