

## SCHEDULE 1

Regulation 8

### Fit and proper persons requirement

**1.—**(1) In this Schedule—

“arrangement” means a voluntary arrangement entered into by an individual with their creditors;

“the Bankruptcy Act” means the Bankruptcy (Scotland) Act 2016<sup>(1)</sup>;

“the Insolvency Act” means the Insolvency Act 1986<sup>(2)</sup>;

“the Insolvency Order” means the Insolvency (Northern Ireland) Order 1989<sup>(3)</sup>;

“the registrar of companies” has the meaning given by section 1060(3) of the Companies Act 2006.

(2) In paragraph 2(a)—

“adjudicator” has the meaning given by section 385(1) of the Insolvency Act<sup>(4)</sup>;

“creditor” has the meaning given by section 383(1) of the Insolvency Act<sup>(5)</sup>.

(3) In paragraph 2(b)—

“the Accountant in Bankruptcy” has the meaning given by section 199(1) of the Bankruptcy Act;

“creditor” has the meaning given by section 383(1) of the Insolvency Act;

“debtor application” has the meaning given by section 228(1) of the Bankruptcy Act;

“sequestration” has the meaning given by section 1 of the Bankruptcy Act.

(4) In paragraph 2(c)—

“bankrupt”, “bankruptcy order” and “bankruptcy petition” have the meanings given in Article 9(1) of the Insolvency Order;

“the court” is defined in rule 0.2 of the Insolvency Rules (Northern Ireland) 1991<sup>(6)</sup>;

“creditor” has the meaning given in Article 9(1) of the Insolvency Order.

**2.** For the purposes of section 11(3)(a) of the Act (fit and proper persons requirement), the Regulator must take into account the following matters when assessing whether a person is fit and proper to act in a capacity mentioned in section 11(2) of the Act—

(a) whether, in England and Wales, the person has—

(i) made any arrangement with the person’s creditors;

(ii) applied to an adjudicator under section 263H of the Insolvency Act<sup>(7)</sup> (bankruptcy applications to an adjudicator) for a bankruptcy order within the meaning given by section 381(2) of the Insolvency Act<sup>(8)</sup> (“bankrupt” and associated terminology);

(iii) been served with a bankruptcy petition within the meaning given by section 381(3) of the Insolvency Act;

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(1) 2016 asp 21.

(2) 1986 c. 45.

(3) S.I. 1989/2405 (N.I.19).

(4) Section 385(1) was amended by paragraphs 1 and 55 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013.

(5) Section 383(1) was amended by section 170(2) of and Schedule 16 to the Criminal Justice Act 1988 (c. 33) and paragraphs 1 and 53 of and Schedule 19 to the Enterprise and Regulatory Reform Act 2013.

(6) S.R. 1991 No. 364.

(7) Section 263H was inserted by section 71(2) of and Schedule 18 to the Enterprise and Regulatory Reform Act 2013 (c. 24).

(8) Section 381(2) was amended by paragraphs 1 and 52 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013.

- (iv) been made bankrupt within the meaning given by section 381(1) of the Insolvency Act<sup>(9)</sup>;
  - (v) been the subject of a bankruptcy restrictions order made under paragraph 1 (bankruptcy restrictions order) of Schedule 4A to the Insolvency Act<sup>(10)</sup> (including an interim bankruptcy restrictions order made under paragraph 5 (interim bankruptcy restrictions order) of that Schedule); or
  - (vi) offered a bankruptcy restrictions undertaking made under paragraph 7 (bankruptcy restrictions undertaking) of Schedule 4A to the Insolvency Act;
- (b) whether, in Scotland, the person has—
- (i) made any arrangement with the person’s creditors;
  - (ii) made a debtor application to the Accountant in Bankruptcy for sequestration;
  - (iii) been served with a petition for sequestration;
  - (iv) been the subject of an award of sequestration in accordance with section 22 of the Bankruptcy Act (when sequestration is awarded); or
  - (v) been the subject of a bankruptcy restrictions order within the meaning given by section 155(1) (bankruptcy restrictions order) of the Bankruptcy Act (including an interim bankruptcy restrictions order within the meaning given by section 160 (interim bankruptcy restrictions orders) of that Act);
- (c) whether, in Northern Ireland, the person has—
- (i) made any arrangement with the person’s creditors;
  - (ii) petitioned the court for a bankruptcy order;
  - (iii) been served with a bankruptcy petition;
  - (iv) been adjudged bankrupt;
  - (v) been the subject of a bankruptcy restrictions order made under paragraph 1 (bankruptcy restrictions order) of Schedule 2A to the Insolvency Order<sup>(11)</sup> (including an interim bankruptcy restrictions order made under paragraph 5 (interim bankruptcy restrictions order) of that Schedule); or
  - (vi) offered a bankruptcy restrictions undertaking made under paragraph 7 (bankruptcy restrictions undertaking) of Schedule 2A to the Insolvency Order;
- (d) whether the person has been a director<sup>(12)</sup> or partner of, or otherwise concerned in the management of, a business that has gone into insolvency, liquidation or administration while the person was concerned with that business or within one year of their being so concerned;
- (e) whether—
- (i) in Great Britain, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders Act 1974<sup>(13)</sup>; or
  - (ii) in Northern Ireland, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978<sup>(14)</sup>;

<sup>(9)</sup> Section 381(1) was amended by paragraphs 1 and 52 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013.

<sup>(10)</sup> Schedule 4A was inserted by section 257(2) of and Schedule 20 to the Enterprise Act 2002 (c. 40).

<sup>(11)</sup> Schedule 2A was inserted by S.I. 2005/1455 (N.I.10).

<sup>(12)</sup> “Director” is defined in section 11(6) of the Act for the purposes of that section as having the meaning given in section 251 of the Insolvency Act 1986 (c. 45).

<sup>(13)</sup> 1974 c. 53.

<sup>(14)</sup> S.I. 1978/1908 (N.I.27).

- (f) whether there has been a judgment against the person or the person 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;
- (g) whether—
  - (i) in Great Britain, the person has been subject to a disqualification order under section 1(1) (disqualification orders: general), or a disqualification undertaking under section 1A(1) (disqualification undertakings: general) of the Company Directors Disqualification Act 1986<sup>(15)</sup>; or
  - (ii) in Northern Ireland, the person has been subject to a disqualification order under Article 3(1) (disqualification orders: general), or a disqualification undertaking under Article 4(1) (disqualification undertakings: general) of the Company Directors Disqualification (Northern Ireland) Order 2002<sup>(16)</sup>;
- (h) whether the person has contravened any of the requirements or standards of—
  - (i) a regulator, including the Regulator; or
  - (ii) the registrar of companies<sup>(17)</sup>;
- (i) any information received from—
  - (i) a regulator; or
  - (ii) the registrar of companies;
- (j) the person’s conduct in relation to, or arising out of or in connection with, any work the person has carried out in one or more of the capacities mentioned in section 11(2) of the Act—
  - (i) in the period of five years ending with the date of the application for authorisation of the scheme; and
  - (ii) at any time since the date of the application for authorisation of the scheme;
- (k) whether—
  - (i) in Great Britain, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the 1995 Act (interpretation of Part 1), under—
    - (aa) section 3 of the 1995 Act<sup>(18)</sup> (prohibition orders), or
    - (bb) any other legislation; or
  - (ii) in Northern Ireland, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the Pensions (Northern Ireland) Order 1995<sup>(19)</sup> (interpretation of Part 2), under—
    - (aa) Article 3 of the Pensions (Northern Ireland) Order 1995<sup>(20)</sup> (prohibition orders), or
    - (bb) any other legislation;
- (l) whether—

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<sup>(15)</sup> 1986 c. 46; section 1(1) was amended by section 5(1) of the Insolvency Act 2000 (c. 39) and section 204(1) and (3) of the Enterprise Act 2002 (c. 40). Section 1A(1) was inserted by section 6(1) and (2) of the Insolvency Act 2000 (c. 39) and was amended by and paragraphs 1 and 3 of Schedule 7 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

<sup>(16)</sup> S.I. 2002/3150 (N.I.4). Article 3(1) was amended by S.I. 2005/1454 (N.I.9). Article 4(1) was amended by paragraph 9(4)(a) of Schedule 8 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

<sup>(17)</sup> “Registrar of companies” is defined in section 1060(3) of the Companies Act 2006.

<sup>(18)</sup> Section 3 was substituted by section 33 of the 2004 Act and amended by S.I. 2010/22.

<sup>(19)</sup> S.I. 1995/3213 (N.I.22).

<sup>(20)</sup> Article 3 was substituted by S.I. 2005/255 (N.I. 1) and was amended by paragraph 3 of Schedule 1 to and Schedule 3 to the Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4 (N.I.)).

- (i) in Great Britain, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the 1995 Act, under—
    - (aa) section 29 of the 1995 Act<sup>(21)</sup> (persons disqualified from being trustees), or
    - (bb) any other legislation; or
  - (ii) in Northern Ireland, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the Pensions (Northern Ireland) Order 1995, under—
    - (aa) Article 29 of the Pensions (Northern Ireland) Order 1995<sup>(22)</sup> (persons disqualified for being trustees), or
    - (bb) any other legislation.
3. For the purposes of section 11(3)(a) of the Act, the Regulator must take into account—
- (a) the knowledge and skills gained from a person’s significant experience as a trustee, in assessing whether the person is fit and proper to act in that capacity;
  - (b) whether a person has successfully completed such relevant training as may be set out in a Code, in assessing whether the person is fit and proper to act in the capacity of a trustee of the scheme;
  - (c) the collective expertise and experience of persons acting together in the capacity of trustees, in assessing whether they are fit and proper to act in that capacity.

## SCHEDULE 2

Regulations 9, 10 and 11

### Scheme design requirement

## Part 1

### Matters that the Regulator must take into account

1. The Regulator must take into account the following matters in deciding whether it is satisfied that the design of a collective money purchase scheme is sound—
- (a) the information or documents mentioned in regulation 10(3) that are provided to the Regulator in accordance with section 13(6) of the Act (viability report);
  - (b) whether the Regulator is satisfied that the scheme is a collective money purchase scheme within the meaning of section 1(2) of the Act (collective money purchase benefits and schemes);
  - (c) whether the Regulator is satisfied that the rules of the scheme meet—
    - (i) the requirements of section 18 of the Act (calculation of benefits); and
    - (ii) the requirements of regulation 17;
  - (d) whether the Regulator is satisfied that the conclusions reached by—
    - (i) the trustees as provided for in paragraph 8(1)(b);

<sup>(21)</sup> Section 29 was amended by paragraphs 34 and 45 of Schedule 12 to and Schedule 13 to the 2004 Act, section 106(2) of and paragraph 8 of Schedule 16 to the Tribunals Courts and Enforcement Act 2007 (c. 15) and S.I. 2004/1941, 2006/1722, 2009/1941, 2012/2404 and 2016/481.

<sup>(22)</sup> Article 29 was amended by S.I. 2002/3150 (N.I.4), S.I. 2005/255 (N.I. 1) and S.R. 2008 No. 94 and 2016 No. 108.

- (ii) the scheme actuary on the matters in regulation 11(2), as set out in the viability report and viability certificate, are justified;
- (e) whether the Regulator considers that—
  - (i) the contents of the viability report;
  - (ii) the contents of the viability certificate; and
  - (iii) the information provided to the Regulator concerning the testing or modelling used for the purposes of determining whether the design of the scheme is sound,are sufficiently comprehensive in order to enable the Regulator to decide whether it is satisfied that the design of the scheme is sound.

## Part 2

### Viability report

#### *Preliminary*

2. A viability report must include the information set out in paragraphs 3 to 9.

#### *General*

3. The date which has been chosen in respect of the viability report in accordance with regulation 10(5).
4. The name and contact details of the person to be contacted in respect of the viability report.
5. A statement, signed by the trustees confirming that—
  - (a) in their opinion, the design of the scheme is sound;
  - (b) the viability report has been approved by the trustees.
6. A statement, signed by the scheme actuary, confirming that, to the extent that the viability report refers to actuarial matters, the scheme actuary is satisfied that those references accurately reflect those matters in respect of the scheme.
7. The name of the scheme in respect of which the viability report has been prepared.

#### *Information about the design of the scheme*

- 8.—(1) An explanation of—
  - (a) the design of the scheme;
  - (b) the reasons why the trustees consider the design of the scheme to be sound and the evidence on which this consideration is based.
- (2) The evidence referred to in sub-paragraph (1)(b) must include the documents prepared by—
  - (a) the scheme actuary for the purposes of regulation 10(3)(b);
  - (b) the trustees for the purposes of regulation 10(3)(c).
9. The explanation required by paragraph 8(1) must include—
  - (a) an explanation of how the scheme satisfies the definition of a collective money purchase scheme under section 1(2) of the Act (collective money purchase benefits and schemes), including—

- (i) an explanation of how the requirements of section 3 of the Act (qualifying schemes) are met in respect of the scheme; and
- (ii) where the scheme is a section of a qualifying scheme, an explanation of how the requirements of section 3 of the Act are met in respect of that section;
- (b) an explanation as to why the trustees are satisfied that the rules of the scheme meet—
  - (i) the requirements of section 18 of the Act (calculation of benefits);
  - (ii) the requirements of regulation 17.

## Part 3

### Viability certificate

- 10. The viability certificate must contain the information set out in paragraphs 11 to 14.
- 11. The date which has been agreed in respect of the viability certificate in accordance with regulation 11(11).
- 12. The name and contact details of the scheme actuary.
- 13. The name of the scheme in respect of which the viability certificate is being obtained.
- 14. A statement, signed by the scheme actuary, confirming that—
  - (a) in the scheme actuary’s opinion, the design of the scheme is sound;
  - (b) when providing the viability certificate, the scheme actuary has had regard to the matters specified in regulation 11(2), as applicable.

## SCHEDULE 3

Regulations 6 and 12

### Financial sustainability requirement

## Part 1

### Information required on application for authorisation

- 1. The other information to be included in an application, in relation to whether the scheme is financially sustainable, is—
  - (a) in relation to whether the scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(a) of the Act (financial sustainability requirement)—
    - (i) an estimate of the cost of setting up the scheme;
    - (ii) an estimate of the cost of running the scheme, in accordance with any requirements set out in a Code;
    - (iii) details of the scheme’s sources of income including estimates of the amount of income from each source, in accordance with any requirements set out in a Code;
    - (iv) the trustees’ strategy for meeting any shortfall between the scheme’s income and the costs mentioned in section 14(2)(a) of the Act;
    - (v) an explanation of how any estimates provided have been calculated and of the assumptions used in reaching those estimates;

- (vi) an explanation of the circumstances in which, and the extent to which, the scheme's actual costs and income may vary from the estimates provided and any measures in place to address such variations;
- (vii) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 14(2)(a) of the Act, the following financial information in respect of each such employer to the extent it is available—
  - (aa) a cash flow statement for the previous 12 months, including any undrawn overdraft facility or revolving credit facility;
  - (bb) forecast and actual profit and loss for the previous 12 months;
  - (cc) budget for the year to date and any variation from that budget;
  - (dd) cash resources;
  - (ee) cash flow forecast for each of the following four quarters;
  - (ff) operating costs;
  - (gg) inter-company loans and other forms of funding;
  - (hh) the employer's most recent accounts;
  - (ii) such further information, concerning the financial position of the employer, as is set out in a Code;
- (viii) details of any financing arrangements entered into by the trustees in respect of the costs mentioned in section 14(2)(a) of the Act;
- (ix) details of the security and enforceability of any loans or other funding commitments provided to the trustees in respect of the scheme, including the reasons why the trustees consider these commitments to be secure and enforceable;
- (x) where the scheme has any arrangements with service providers that meet the description in paragraph 2(i), details of the matters set out in that paragraph in respect of each arrangement;
- (xi) details of any insurance held in respect of the scheme, in respect of the costs mentioned in section 14(2)(a) of the Act, including details of the matters set out in paragraph 2(j);
- (b) in relation to whether the scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(b) of the Act—
  - (i) an estimate of the costs mentioned in section 14(2)(b)(i) of the Act;
  - (ii) an estimate of the costs mentioned in section 14(2)(b)(ii) of the Act;
  - (iii) the trustees' strategy for meeting the costs mentioned in section 14(2)(b) of the Act;
  - (iv) the amount and classes of assets held by, or that will be available to, the trustees to meet those costs;
  - (v) an explanation of how any estimates provided have been calculated and of the assumptions used in reaching those estimates;
  - (vi) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 14(2)(b) of the Act, the following financial information in respect of each employer to the extent it is available—
    - (aa) a cash flow statement for the previous 12 months, including any undrawn overdraft facility or revolving credit facility;
    - (bb) forecast and actual profit and loss for the previous 12 months;
    - (cc) budget for the year to date and any variation from that budget;

- (dd) cash resources;
- (ee) cash flow forecast for each of the following four quarters;
- (ff) operating costs;
- (gg) inter-company loans and other forms of funding;
- (hh) the employer's most recent accounts;
- (ii) such further information, concerning the financial position of the employer, as is set out in a Code;
- (vii) details of the security and enforceability of any loans or other funding commitments provided to the trustees in respect of the scheme, including the reasons why the trustees consider these commitments to be secure and enforceable;
- (viii) details of any insurance held in respect of the scheme in respect of the costs mentioned in section 14(2)(b) of the Act, including details of the matters set out in paragraph 3(i);
- (ix) details of any compensation for which members are eligible in the event of a scheme failure, including details of the matters set out in paragraph 3(k) of this Schedule.

## Part 2

### Matters which the Regulator must take into account

2. The Regulator must take account of the following matters in deciding whether it is satisfied that a collective money purchase scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(a) of the Act (financial sustainability requirement)—

- (a) the scheme's sources of income, including the estimated amount of income from each source;
- (b) the estimated cost of setting up the scheme;
- (c) the estimated cost of running the scheme;
- (d) the trustees' strategy for meeting any shortfall between the scheme's income and the costs mentioned in section 14(2)(a) of the Act;
- (e) the robustness of any estimates provided to the Regulator in relation to the costs mentioned in section 14(2)(a) of the Act, and the robustness of the strategy mentioned in subparagraph (d);
- (f) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 14(2)(a) of the Act, the financial position of each of those employers that the Regulator considers relevant;
- (g) the scheme financing arrangements entered into by the trustees in respect of the costs mentioned in section 14(2)(a) of the Act;
- (h) the security and enforceability of loans and other funding commitments provided to the trustees in respect of the scheme;
- (i) where the scheme has an arrangement with a service provider under which the service provider accepts the risk that its costs will exceed any fee paid to it, the provisions made to secure this service and any limitation on the service provider's liability for those costs;
- (j) any insurance held in respect of the costs mentioned in section 14(2)(a) of the Act, including details of—
  - (i) the insurance provider;



- (ii) the policy holder;
- (iii) the beneficiary of the policy;
- (iv) any limitations on the insurer's liability.

**3.** The Regulator must take account of the following matters in deciding whether it is satisfied that a collective money purchase scheme has sufficient financial resources to meet the costs mentioned in section 14(2)(b) of the Act—

- (a) the most recent estimates of the costs mentioned in section 14(2)(b) of the Act provided in respect of the scheme;
- (b) the extent and manner in which the trustees have made provision to meet those costs;
- (c) the amount and classes of assets held by, or available to, the trustees to meet those costs;
- (d) the robustness of any estimates provided to the Regulator in relation to the costs mentioned in section 14(2)(b) of the Act, and the robustness of the strategy for meeting those costs;
- (e) where one or more employers in relation to the scheme has agreed to fund the costs mentioned in section 14(2)(b) of the Act, the financial position of each of those employers that the Regulator considers relevant;
- (f) the security and enforceability of loans and other funding commitments provided to the trustees in respect of the scheme;
- (g) whether the scheme rules impose liability on any person for the following costs and, if so the identity of those liable—
  - (i) the costs of winding up the scheme;
  - (ii) the costs of converting the scheme into a closed scheme;
- (h) the alignment between the actions set out in the scheme's continuity strategy and the estimate in the strategy of the costs of carrying out those actions;
- (i) any insurance held in respect of the costs mentioned in section 14(2)(b) of the Act, including details of—
  - (i) the insurance provider;
  - (ii) the policy holder;
  - (iii) the beneficiary of the policy;
  - (iv) any limitations on the insurer's liability;
- (j) the quality of the scheme's records and data;
- (k) whether the members are eligible for compensation in the event of a scheme failure and, if so, details of—
  - (i) the compensation provider;
  - (ii) the basis on which the compensation is payable;
  - (iii) any limits on the amount of compensation payable;
- (l) the scheme's most recent continuity strategy.

### Part 3

#### Requirements to be met by the collective money purchase scheme

**4.** A collective money purchase scheme must meet the following requirements relating to its financing—

- (a) any assets held by or available to the trustees to meet the costs mentioned in section 14(2) of the Act (financial sustainability requirement) must be—
  - (i) of the classes and in the proportions set out in a Code;
  - (ii) valued in accordance with any discounted rates set out in a Code;
  - (iii) available to be used when the relevant costs fall due;
- (b) the scheme’s trustees must have first call on the assets referred to in sub-paragraph (a);
- (c) any funding commitment made to the scheme in respect of the costs mentioned in section 14(2) of the Act must be given in writing and duly executed by the party making the commitment.

## SCHEDULE 4

Regulations 6 and 13

### Communication requirement

#### *Interpretation*

1. In this Schedule—

“scheme communication” means a notification, notice, document, statement or other communication relating to the scheme which is provided, or made available, to a relevant person by or on behalf of the scheme;

“relevant functions” are—

- (a) the development, production, provision or review of scheme communications;
- (b) record-keeping in respect of scheme communications;
- (c) quality assurance activities in respect of scheme communications; and
- (d) any other functions, in respect of scheme communications, set out in a Code.

#### *Preliminary*

2. The matters that the Regulator must take into account in deciding, for the purposes of section 15 of the Act (communication requirement), whether it is satisfied that a collective money purchase scheme has adequate systems and processes for communicating with members and others, are set out in paragraphs 3 to 6.

#### *Functionality, quality and maintenance of IT systems*

3. Whether the IT systems used for the purposes of carrying out relevant functions—

- (a) have the necessary capacity and capability to enable relevant functions to be carried out by or on behalf of the scheme in accordance with—
  - (i) any legal requirement in relation to scheme communications; and
  - (ii) the scheme’s systems and processes concerning scheme communications;
- (b) are monitored to ensure that they continue to have the necessary capacity and capability;
- (c) are capable of being upgraded or updated to reflect changes in legal requirements relating to scheme communications;
- (d) have a back-up system which allows data concerning scheme communications to be recovered if the main system fails;

- (e) have restricted physical and electronic access, with firewalls and other appropriate protection against viruses and other threats;
- (f) are maintained at regular intervals, either automatically or by a person with the appropriate skills and experience;
- (g) are backed up and updated regularly, including the maintenance of firewalls and other preventative systems.

#### *Resource planning*

4. Whether there are systems and processes for ensuring that there are sufficient human resources, with the relevant skills, qualifications and capacity necessary to enable relevant functions to be carried out by or on behalf of the scheme in accordance with—

- (a) any legal requirement in relation to scheme communications; and
- (b) the scheme's systems and processes concerning scheme communications.

#### *Quality assurance*

5. Whether there are systems and processes—

- (a) for assessing and improving the effectiveness of scheme communications and for updating scheme communications to take into account these assessments;
- (b) for ensuring that the information contained in scheme communications is accurate and is not misleading;
- (c) for ensuring that any legal requirement in relation to scheme communications is complied with;
- (d) for ensuring that scheme communications are provided or made available in a timely manner;
- (e) for scheme communications to be reviewed by such persons as the trustees consider appropriate before being provided or made available and for scheme communications to be kept under review as appropriate.

#### *Member engagement*

6. Whether there are systems and processes—

- (a) for gathering feedback from members concerning scheme communications;
- (b) for evaluating feedback from members concerning scheme communications and sharing this feedback with trustees;
- (c) for taking into account feedback from members concerning scheme communications in the design of scheme communications;
- (d) for reporting to the trustees, and members, as to how feedback from members has been taken into account in the design of scheme communications.

## SCHEDULE 5

Regulations 6 and 14

## Systems and processes requirement

*Preliminary*

1. The matters that the Regulator must take into account in deciding, for the purposes of section 16 of the 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 are set out in paragraphs 2 to 14.

*Features and functionality of IT systems*

2. Whether the IT systems have the capacity and capability—
- (a) to process financial transactions securely, accurately and by automated means, including the core transactions described in regulation 24(2) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996<sup>(23)</sup> (requirements for processing financial transactions);
  - (b) to make and receive electronic payments;
  - (c) to accept contributions from multiple sources;
  - (d) to exchange data with other IT systems, including those used by employers and service providers;
  - (e) to process information securely, accurately and by automated means for the purposes of calculating the rate or amount of benefits to be provided under the scheme, in accordance with the scheme rules;
  - (f) to reconcile data on transactions and produce reports so that those activities can be monitored and transaction errors rectified promptly;
  - (g) to identify and categorise transactions and payments for authorisation and countersigning at an appropriate level of authority;
  - (h) to be updated to reflect changes in the legal requirements affecting transactions, payments and records, including changes in tax thresholds, the annual allowance and the lifetime allowance.

*Standards required of IT systems*

3. Whether the IT systems—
- (a) are capable of being upgraded to reflect changes in required transactions and capacity;
  - (b) have restricted physical and electronic access, with firewalls and other appropriate protection against viruses and other threats;
  - (c) have a back-up system which allows data to be recovered if the main system fails.

*Maintenance of IT systems*

4. Whether the IT systems—
- (a) are maintained at regular intervals, either automatically or by a person with the appropriate skills and experience;

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(23) [S.I. 1996/1715](#). Regulation 24 was inserted by [S.I. 2015/879](#).

- (b) are backed up and updated regularly, including the maintenance of firewalls and other preventative systems;
- (c) are monitored to ensure that their capacity is sufficient for the size of the scheme.

*Member records*

5. Whether the scheme's systems and processes ensure that—
- (a) there is an accurate record on the relevant IT system of each member's details, including the member's pensionable service and pensionable salary and, on an annual basis, the amount that represents the member's share of the available assets of the scheme;
  - (b) any unpaid contributions by or in respect of active members can be explained to the Regulator and remedied;
  - (c) members' records are reviewed regularly for completeness and accuracy and updated promptly with changes of information;
  - (d) errors in member's records can be identified and addressed, and any financial impact of such errors on members can be rectified;
  - (e) for each financial year, records are maintained—
    - (i) in respect of each person receiving payment of a pension or other benefits under the scheme, including the amount of benefits received during the year;
    - (ii) in respect of each person receiving payment of a periodic income in accordance with paragraph 7 of Schedule 6, including the amount of income received during the year;
  - (f) for each financial year, there is an accurate record of the amount that represents the value of accrued rights to benefits under the scheme that has been transferred out of the scheme during the financial year.

*Trustees and others*

6. Whether there are systems and processes—
- (a) for the fair and transparent recruitment, appointment, resignation and removal of trustees;
  - (b) for the fair and transparent recruitment, appointment, resignation and removal of the scheme actuary;
  - (c) for determining and recording that persons involved in the scheme in the capacities mentioned in section 11(2) of the Act (fit and proper persons requirement) are, and remain, fit and proper;
  - (d) for monitoring and recording trustees' learning and development, and for ensuring that it is appropriate for the scheme's activities;
  - (e) in relation to meetings of trustees, including—
    - (i) the intervals at which meetings of trustees are to take place;
    - (ii) the number of trustees required to authorise decisions on risk management, resource planning and investments;
    - (iii) the process for managing the scheme's business between meetings of the trustees;
  - (f) for recording, maintaining and managing all documents relating to the trustees in an accessible medium;
  - (g) for managing the scheme's business if one or more trustees are absent.

*Contracts and service providers*

7. Whether there are systems and processes—
- (a) for establishing that service providers have the necessary qualifications, experience or approval, as applicable;
  - (b) for establishing that service providers have the capability to provide their services in respect of the scheme—
    - (i) in accordance with any scheme rules that relate to those services;
    - (ii) in accordance with any statutory requirement in relation to those services to which the trustees are subject in respect of the scheme, to the extent that the services are provided on behalf of the trustees;
  - (c) for ensuring that trustees are appropriately engaged in overseeing service providers and in decisions concerning them, including their appointment;
  - (d) for informing the trustees of—
    - (i) any failure by service providers to deliver services;
    - (ii) any actions or omissions by service providers which may prejudice the effective running of the scheme;
  - (e) for recording, maintaining and managing all documents relating to service providers in an accessible medium.

*Governance*

8. Whether there are systems and processes—
- (a) for the identification of roles and responsibilities in respect of the governance of the scheme;
  - (b) for the appointment of persons with sufficient skills, knowledge and experience to carry out those roles and responsibilities;
  - (c) for setting clear objectives concerning the governance of the scheme and for monitoring whether those objectives are being met within the relevant timescales;
  - (d) for documenting and reporting matters relating to the governance of the scheme;
  - (e) for identifying and addressing any failures in the governance of the scheme.

*Risk management*

9. Whether there are systems and processes—
- (a) for identifying, managing and monitoring operational, financial, regulatory and compliance risks;
  - (b) for identifying, managing and monitoring risks in respect of the soundness of the design of the scheme;
  - (c) for recording and documenting risks in an appropriate and durable format;
  - (d) for ensuring that risks are managed in a timely manner by persons with the appropriate skills, knowledge and resources;
  - (e) for informing the trustees about risks that have arisen and the steps being taken to manage them.

### *Security*

10. Whether there are systems and processes—
- (a) for preventing unauthorised access to sensitive records and infrastructure, including those containing member information, financial details or investment information;
  - (b) for monitoring and recording electronic and physical access to sensitive records and infrastructure;
  - (c) for ensuring the secure transfer of physical and electronic data and the secure conduct of transactions.

### *Resource planning*

11. Whether there are systems and processes for ensuring that there are sufficient human resources with the skills, qualifications and capacity necessary to comply with the requirements of Part 1 of the Act (collective money purchase benefits) and, in particular—
- (a) to run and maintain the scheme's systems and processes;
  - (b) to provide for the effective running of the scheme; and
  - (c) to send appropriate and timely notifications, information and documents to the Regulator, including information about the scheme's systems and processes.

### *Investments*

12. Whether there are systems and processes—
- (a) for investing contributions in a timely manner in accordance with the scheme's investment policy;
  - (b) for recording investment decisions;
  - (c) for managing the scheme's interaction with investment managers, and recording key decisions;
  - (d) for recording, managing and reviewing the risks associated with investment decisions; and
  - (e) for informing trustees about questions, decisions and risks relating to investments.

### *Valuation and benefit adjustment*

13. Whether there are systems and processes—
- (a) for ensuring that the rules of the scheme meet the requirements of section 18 of the Act (calculation of benefits) and regulation 17;
  - (b) for ensuring that the trustees comply with section 19(1) of the Act (advice of scheme actuary);
  - (c) for establishing that the scheme actuary has complied with regulation 18;
  - (d) for ensuring that the trustees obtain actuarial valuations in accordance with section 20 of the Act (actuarial valuations) and regulation 19;
  - (e) for establishing that the scheme actuary has complied with section 21 of the Act (certificate that actuarial valuation prepared in accordance with scheme rules);
  - (f) for complying with the requirements of section 22 of the Act (benefits adjustments), where applicable;
  - (g) for responding to a direction given under section 23(2) of the Act (powers of the Pensions Regulator).

### *Member engagement*

14. Whether there are systems and processes—
- (a) for facilitating members' engagement with the scheme;
  - (b) for bringing members' views to the attention of the trustees;
  - (c) for directing members' complaints to the correct channels for resolution.

## SCHEDULE 6

Regulation 29

### Continuity Option 1: transfer out and winding up

#### *Definitions*

1.—(1) In this Schedule—

“arrangement” has the meaning given in section 152 of the Finance Act 2004<sup>(24)</sup>;

“beneficiary” in relation to the collective money purchase scheme means—

- (a) a member of the scheme, or
- (b) a person who has survived a member of the scheme and has an entitlement to benefits, or a right to future benefits, under the scheme rules in respect of the member;

“default arrangement” has the meaning given in regulation 3 of the Occupational Pension Schemes (Charges and Governance) Regulations 2015<sup>(25)</sup>;

“default discharge option” means the way the trustees propose to discharge the scheme's liability to a beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme, unless the beneficiary specifies otherwise in accordance with paragraph 14;

“discharge time” in relation to a beneficiary under the scheme means the time that the scheme's liability to the beneficiary in respect of the value of the beneficiary's accrued rights to benefits under the scheme is discharged;

“final quantification” means the final quantification carried out immediately prior to the discharge time, in accordance with paragraph 5(1)(f);

“income withdrawal” has the meaning given in paragraph 7 of Schedule 28 to the Finance Act 2004<sup>(26)</sup>;

“initial quantification” means the initial quantification carried out in accordance with paragraph 5(1)(c);

“member's flexi-access drawdown fund” has the meaning given in paragraph 8A of Schedule 28 to the Finance Act 2004<sup>(27)</sup>;

“pensioner beneficiary”, in relation to the collective money purchase scheme, means a person who is entitled to the present payment of pension or other benefits under the scheme;

“penultimate quantification” means the quantification carried out not less than one month before the proposed discharge time, in accordance with paragraph 5(1)(e);

<sup>(24)</sup> 2004 c. 12. Section 152 was amended by paragraphs 1 and 2 of Schedule 5 to the Finance Act 2021 (c. 26).

<sup>(25)</sup> S.I. 2015/879. Regulation 3 was amended by S.I. 2015/889.

<sup>(26)</sup> Paragraph 7 was substituted by paragraphs 2 and 5 of Schedule 16 to the Finance Act 2011 (c. 11) and amended by section 1 and paragraphs 5 and 19 of Schedule 1 to the Taxation of Pensions Act 2014 (c. 39).

<sup>(27)</sup> Paragraph 8A was inserted by section 1 of and paragraph 3 of Schedule 1 to the Taxation of Pensions Act 2014 (c. 39).



“periodic income” means a payment made by a scheme under paragraph 7, which is not the payment of a benefit (including pension) under the scheme;

“quantification” means the quantification of the amount that represents the value of each beneficiary’s accrued rights to benefits under the scheme;

“winding-up commencement time” means the time, determined in accordance with these Regulations and the scheme rules, that winding-up is taken to begin for the purposes of continuity option 1;

“winding-up period” means the period beginning with the winding-up commencement time and ending when the winding-up of the scheme is completed;

“winding-up quantification” means the quantification carried out after the Regulator notifies the trustees that the implementation strategy is approved, in accordance with paragraph 5(1)(d).

(2) Notices given under this Schedule must be sent—

- (a) in writing, by post or email;
- (b) to the addressee’s last known address; and
- (c) in accordance with any further requirements set out in a Code.

(3) For the purposes of sub-paragraph (2), a person’s email address is—

- (a) any email address provided for the time being by that person as an address for contacting that person; or
- (b) if no such address has been provided, any email address by means of which the sender reasonably believes that the notice will come to the attention of that person or (where that person is a body corporate) any director or other officer of that body corporate.

(4) A notice under this Schedule sent to a person by email is taken to have been received by that person 48 hours after it is sent.

#### *Alternative ways of discharging the scheme’s liability*

**2.—**(1) For the purposes of section 36(2)(b) of the Act (continuity option 1: discharge of liabilities and winding up), the ways of discharging a collective money purchase scheme’s liability to each beneficiary in respect of the beneficiary’s accrued rights to benefits under the scheme (the “transferring scheme”) are—

- (a) transferring the value of those rights to an occupational pension scheme (the “receiving scheme”) where an employer in relation to the transferring scheme is or is connected with a controlling employer or a principal employer of the receiving scheme;
- (b) transferring the value of those rights to a member’s flexi-access drawdown fund in respect of an arrangement for the purposes of entitlement by the beneficiary to income withdrawal which is an authorised member payment for the purposes of Part 4 of the Finance Act 2004 (pension schemes etc.).

(2) For the purposes of section 36(2)(c) of the Act, the way of discharging a collective money purchase scheme’s liability to each beneficiary in respect of the beneficiary’s accrued rights to benefits under the scheme is securing the payment of benefits by the purchase of one or more policies from one or more insurers authorised by the Financial Conduct Authority for carrying on long-term insurance business in the United Kingdom.

(3) In this paragraph—

“controlling employer” in relation to a scheme is the employer that has the power to act on behalf of all employers in the scheme in relation to the scheme rules;

“principal employer” in relation to a scheme is the principal employer for the purposes of the scheme in accordance with the scheme rules.

#### *Requirements of rules of scheme*

3.—(1) The rules of a collective money purchase scheme must make provision about how continuity option 1 is to be given effect in the event that the trustees are required or decide to pursue continuity option 1.

(2) The rules must include the following—

- (a) the time when the winding-up is to be taken to begin for the purposes of continuity option 1, taking account of the requirements of paragraph 4;
- (b) how the value of the available assets of the scheme is to be determined;
- (c) how the amount that represents the value of each beneficiary’s accrued rights to benefits under the scheme is to be quantified for the purposes of the initial quantification, the winding-up quantification and any subsequent quantification (including the penultimate quantification) carried out prior to the final quantification;
- (d) how the amount that represents the value of each beneficiary’s accrued rights to benefits under the scheme is to be quantified for the purposes of the final quantification;
- (e) how the amount or rate of periodic income payable during the winding-up period is to be calculated and adjusted from time to time.

(3) Rules for determining how the amount that represents the value of each beneficiary’s accrued rights to benefits under the scheme is to be quantified must apply to all beneficiaries of the scheme without variation.

#### *Winding-up commencement time*

4.—(1) Where the trustees of a collective money purchase scheme are required to pursue continuity option 1 because a triggering event which is an item 1 or 2 triggering event has occurred in relation to the scheme, the winding-up commencement time must be on the date the decision to withdraw authorisation becomes final for the purposes of Part 1 of the Act (collective money purchase benefits).

(2) Where the trustees of a collective money purchase scheme are required to pursue continuity option 1 because a triggering event which is an item 3 triggering event has occurred in relation to the scheme, the winding-up commencement time must be on the date on which the Regulator gives a notification under section 7(3) of the Act (authorisation of collective money purchase schemes).

(3) Subject to sub-paragraphs (1) and (2), the winding-up commencement time shall be determined in accordance with subsections (3A) to (3D) of section 124 of the 1995 Act<sup>(28)</sup> (Interpretation of Part 1).

#### *Quantification of the value of beneficiaries’ accrued rights to benefits*

5.—(1) The quantification of the value of each beneficiary’s accrued rights to benefits under the scheme must be carried out—

- (a) in accordance with these Regulations and with the scheme rules;
- (b) on an actuarial basis;

<sup>(28)</sup> Subsections (3A) to (3D) were inserted by section 49(2) of the Child Support, Pensions and Social Security Act 2000 (c. 19) and amended by paragraphs 34 and 69 of Schedule 12 to the 2004 Act.

- (c) as an initial estimate before the end of 28 days beginning with the date of the winding-up commencement time;
  - (d) as a subsequent estimate within the period of six months beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved;
  - (e) as a final estimate not less than one month before the proposed discharge time; and
  - (f) as a final figure immediately prior to the discharge time in relation to the beneficiary.
- (2) The quantification must be carried out by reference to the realisable value of the available assets of the scheme.
- (3) The amount that represents the value of a beneficiary's accrued rights to benefits under the scheme for the purposes of the final quantification must be reduced to take account of any periodic income received by that beneficiary in accordance with paragraph 7.

#### *Winding-up period*

- 6.—(1) Subject to sub-paragraph (5), no new members may be admitted to the scheme during the winding-up period.
- (2) No further contributions by or on behalf or in respect of members of the scheme may be paid towards the scheme (other than those due to be paid before the beginning of the winding-up period) during the winding-up period.
- (3) No benefits may accrue to or in respect of members of the scheme during the winding-up period.
- (4) Subject to sub-paragraph (6), no pension or other benefits may be paid by the scheme to or in respect of beneficiaries during the winding-up period.
- (5) Where a person is entitled to a pension credit derived from another person's shareable rights under the scheme nothing in this Schedule prevents the trustees of the scheme discharging their liability in respect of the credit under Chapter 1 of Part 4 of the Welfare Reform and Pensions Act 1999<sup>(29)</sup> (sharing of rights under pension arrangements) by conferring appropriate rights under the scheme on that person.
- (6) Nothing in this Schedule prevents the exercise of any right or power conferred by Chapter 2 of Part 4ZA of the 1993 Act<sup>(30)</sup> (early leavers: cash transfer sums and contribution refunds) or the discharge of any duty imposed by that Chapter.
- (7) The requirements mentioned in sub-paragraph (8) cease to apply during the winding-up period and the trustees are discharged from any liability to carry out these requirements in respect of the winding-up period.
- (8) The requirements are—
- (a) obtaining actuarial valuations in accordance with section 20 of the Act (actuarial valuations);
  - (b) determining the rate or amount of benefits under the scheme, under scheme rules in accordance with section 18 of the Act (calculation of benefits); and
  - (c) providing qualifying benefits including the payment of a pension or other benefits under the scheme, as provided for in section 3 of the Act (qualifying schemes).
- (9) In sub-paragraph (5)—

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<sup>(29)</sup> 1999 c. 30.

<sup>(30)</sup> Chapter 2 of Part 4ZA was inserted by section 264 of the 2004 Act and its heading was substituted by paragraphs 3 and 4 of Schedule 4 to the Pension Schemes Act 2015 (c. 8).

“appropriate rights” has the same meaning as in paragraph 5 of Schedule 5 to the Welfare Reform and Pensions Act 1999 (pension credits: mode of discharge);

“shareable rights” has the meaning given in section 27(2) of that Act (scope of mechanism).

#### *Periodic income*

7.—(1) Where a person was a pensioner beneficiary of the scheme immediately prior to the beginning of the winding-up period, or would have become a pensioner beneficiary of the scheme during the winding-up period but for the provisions of this Schedule, the trustees must pay that person a periodic income under and in accordance with this paragraph.

(2) A payment of periodic income by a scheme under this paragraph is not a payment of benefits (including pension) under the scheme.

(3) The periodic income is payable to a person who was a pensioner beneficiary of the scheme immediately prior to the beginning of the winding-up period during the period beginning with the date of the winding-up commencement time and continuing until the earlier of the date of the discharge time in relation to that person or the date that person would otherwise have ceased to be a pensioner beneficiary.

(4) The periodic income is payable to a person who would have become a pensioner beneficiary of the scheme during the winding-up period but for the provisions of this Schedule during the period beginning with the date that person would have become a pensioner beneficiary and continuing until the earlier of the date of the discharge time in relation to that person or the date that person would otherwise have ceased to be a pensioner beneficiary.

(5) In the case of a person who was a pensioner beneficiary immediately prior to the beginning of the winding-up period, payments of periodic income before the initial quantification has been carried out must be made—

- (a) on the same date that a payment of pension would have been due to be made to that person had the winding-up of the scheme not commenced; and
- (b) at the same rate or amount as the last payment of pension made to that person before the beginning of the winding-up period.

(6) In the case of a person who would have become a pensioner beneficiary of the scheme during the winding-up period but for the provisions of this Schedule, payments of periodic income before the initial quantification has been carried out must—

- (a) be made on the same date that a payment of pension would have been due to be made to that person had the winding-up of the scheme not commenced; and
- (b) be calculated by reference to the last actuarial valuation carried out before the beginning of the winding-up period.

(7) After the initial quantification has been carried out, the amount or rate of the periodic income payable to a person must—

- (a) be calculated by reference to the amount that represents the value of the person’s accrued rights to benefits under the scheme;
- (b) until the winding-up quantification has been carried out, be calculated and paid on the basis of the initial estimate;
- (c) after the winding-up quantification has been carried out, be calculated and paid on the basis of the latest of the winding-up quantification or any subsequent quantification;
- (d) be adjusted from time to time to take account of any subsequent quantification carried out up to and including the penultimate quantification.

### *Information about periodic income*

8.—(1) The information mentioned in sub-paragraph (2) must be given in accordance with the provisions of this paragraph to each person who was a pensioner beneficiary of the scheme immediately prior to the beginning of the winding-up period and to each person who would have become a pensioner beneficiary of the scheme during the winding-up period but for the provisions of this Schedule.

(2) The information is—

- (a) that during the winding-up period pensions and other benefits cease to be payable under the scheme and instead the scheme must make payments of periodic income to persons who were and to persons who would have become pensioner beneficiaries;
- (b) when payment of the periodic income to the person will commence or, if a payment of periodic income has already been made, when the payments commenced;
- (c) an explanation that payment of the periodic income from the scheme will cease at the earlier of the date of the discharge time in relation to the person or the date the person would otherwise have ceased to be a pensioner beneficiary;
- (d) details of when and how the periodic income is to be or is being paid;
- (e) the amount that the person's periodic income will be following the initial quantification, where this is known;
- (f) an explanation of how the amount of the periodic income is calculated;
- (g) that the amount may be adjusted during the winding-up period, and that the amount may reduce following an adjustment;
- (h) how and when notice of any adjustment will be given to the person;
- (i) that the value of the person's accrued rights to benefits under the scheme at the discharge time will be reduced to take account of the periodic income payments made to the person during the winding-up period.

(3) In the case of a person who was a pensioner beneficiary under the scheme immediately prior to the beginning of the winding-up period, the information must be given as soon as practical and in any event no more than one month after the date of the winding-up commencement time.

(4) In the case of a person who would have become a pensioner beneficiary under the scheme during the winding-up period but for the provisions of this Schedule, the information must be given as soon as practical and in any event no more than one month after the date the person would have become a pensioner beneficiary.

### *Scheme to continue to be a CMPS during winding-up*

9.—(1) A “collective money purchase scheme” for the purposes of Part 1 of the Act (collective money purchase benefits) includes a scheme or section of a scheme during the winding-up period where the scheme or section was a collective money purchase scheme immediately before the winding-up commencement time.

(2) Sub-paragraph (1) applies irrespective of the fact that in accordance with the requirements of this Schedule the scheme or section has, during the winding-up period—

- (a) ceased to make payments of benefits including payments of pension under the scheme; and
- (b) commenced payments of periodic income under paragraph 7(1).

*Trustees' notice to employers*

**10.**—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice to each employer and relevant former employer in relation to the scheme containing the information mentioned in sub-paragraph (2), in accordance with sub-paragraph (3).

(2) The information is—

- (a) details of the default discharge options identified in respect of beneficiaries and details of which option will apply to different descriptions of beneficiary including the name of any scheme which has been identified as a default discharge option for beneficiaries of the scheme;
  - (b) that if a beneficiary does not specify an alternative in accordance with the requirements of this Schedule, the scheme's liability to the beneficiary will be discharged in accordance with the relevant default discharge option;
  - (c) the beneficiary's rights under Chapter 2 of Part 4ZA of the 1993 Act (early leavers: cash transfer sums and contribution refunds);
  - (d) the timetable for future communication with beneficiaries and employers;
  - (e) that the notice is for information only.
- (3) A notice under this paragraph must be sent before the end of 14 days beginning with—
- (a) the date on which the trustees identify the default discharge options; or
  - (b) if later, the date on which the Regulator notifies the trustees that the implementation strategy is approved.

*Notification to receiving scheme*

**11.**—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice to the trustees or managers of any occupational pension scheme to which they propose to transfer the value of beneficiaries' accrued rights to benefits under the scheme under a default discharge option, the trustees or managers of which are able and willing to accept the transfer.

(2) The notice sent under this paragraph must state that the scheme has been selected as a default discharge option for the purposes of section 36 of the Act (continuity option 1: discharge of liabilities and winding up), for the transfer of the value of beneficiaries' accrued rights to benefits.

(3) The notice must be sent before the end of 14 days beginning with—

- (a) the date on which the trustees identify the scheme as a default discharge option for those purposes; or
- (b) if later, the date on which the Regulator notifies the trustees that the implementation strategy is approved.

*Trustees' first notice to beneficiaries in respect of discharge options*

**12.**—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice to each beneficiary of the scheme containing the information mentioned in sub-paragraph (2), in accordance with sub-paragraph (3).

(2) The information is—

- (a) details of the default discharge option for the beneficiary;
- (b) where the beneficiary can obtain information and guidance about the default discharge option;

- (c) details of the beneficiary's right to choose whether the value of the beneficiary's accrued rights to benefits under the scheme are discharged by—
    - (i) the default discharge option proposed by the trustees; or
    - (ii) an alternative option specified by the beneficiary;
  - (d) details of the alternative options available to the beneficiary in accordance with paragraph 14(2);
  - (e) details of the beneficiary's rights under Chapter 2 of Part 4ZA of the 1993 Act (early leavers: cash transfer sums and contribution refunds);
  - (f) next steps and the timetable for future communications with the beneficiary.
- (3) A notice under this paragraph must be sent before the end of 14 days beginning with—
- (a) the date on which the trustees identify the default discharge option in relation to the beneficiary; or
  - (b) if later, the date on which the Regulator notifies the trustees that the implementation strategy is approved.

*Trustees' second notice to beneficiaries in respect of discharge options*

**13.**—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a second notice to each beneficiary of the scheme containing the information mentioned in sub-paragraph (2), in accordance with sub-paragraph (3).

- (2) The information is—
- (a) the proposed discharge time;
  - (b) an estimate of the amount that represents the value of the beneficiary's accrued rights to benefits under the scheme based on the latest quantification in relation to the beneficiary;
  - (c) details of the default discharge option for the beneficiary including the nature of the arrangement it is proposed will be used to discharge the scheme's liability to the beneficiary and the name of the scheme or insurers the trustees propose to use;
  - (d) that the scheme's liability to the beneficiary in respect of the value of the beneficiary's accrued rights to benefits under the scheme will be discharged by the default discharge option unless the beneficiary specifies otherwise;
  - (e) where the beneficiary can obtain information and guidance about the default discharge option;
  - (f) details of the beneficiary's right to choose whether the value of the beneficiary's accrued rights to benefits under the scheme are discharged by—
    - (i) the default discharge option proposed by the trustees; or
    - (ii) an alternative option specified by the beneficiary;
  - (g) the requirement for a beneficiary who wishes to specify an alternative option to send the trustees of the collective money purchase scheme a notice in accordance with paragraph 14;
  - (h) details of the alternative options available to the beneficiary in accordance with paragraph 14(2);
  - (i) details of the beneficiary's rights under Chapter 2 of Part 4ZA of the 1993 Act (early leavers: cash transfer sums and contribution refunds);
  - (j) details of where the beneficiary can obtain information and guidance about the alternative options available to the beneficiary;

(k) next steps and the timetable for future communications with beneficiaries.

(3) A notice under this paragraph must be sent before the end of the period of one month beginning with the date on which the winding-up quantification was completed.

#### *Beneficiaries' response to trustees*

**14.**—(1) A beneficiary who has received notice from the trustees under paragraph 13 may give notice to the trustees requiring them to discharge the scheme's liability to the beneficiary in respect of the value of the beneficiary's accrued rights to benefits under the scheme—

- (a) in the way set out in the default discharge option; or
- (b) in an alternative way specified by the beneficiary.

(2) The alternative ways which may be specified by the beneficiary are—

- (a) transferring the value of the beneficiaries' accrued rights to benefits under the scheme to an authorised collective money purchase scheme or an authorised Master Trust scheme;
- (b) transferring the value of those rights to a personal pension scheme or an occupational pension scheme which is registered under Chapter 2 of Part 4 of the Finance Act 2004 (registration of pension schemes);
- (c) transferring the value of those rights to a member's flexi-access drawdown fund in respect of an arrangement for the purposes of entitlement by the beneficiary to income withdrawal which is an authorised member payment for the purposes of Part 4 of the Finance Act 2004 (pension schemes etc);
- (d) securing the payment of benefits by the purchase of one or more policies from one or more insurers authorised by the Financial Conduct Authority for carrying on long-term insurance business in the United Kingdom.

(3) Where the alternative way specified by the beneficiary is that the value of the beneficiary's accrued rights to benefits should be transferred to an alternative pension scheme, the scheme must be one which is able and willing to accept the transfer.

(4) A notice under this paragraph—

- (a) must be sent before the end of the period of three months beginning with the day when the beneficiary received notice from the trustees under paragraph 13; and
- (b) must contain sufficient information about the alternative way specified by the beneficiary, including bank account details, to enable the trustees to comply with paragraph 15.

#### *Notice of expected discharge time*

**15.** Not less than one month before the date of the expected discharge time, the trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice of the expected discharge time to—

- (a) each beneficiary of the scheme; and
- (b) the employers in relation to the scheme.

#### *Trustees' powers*

**16.**—(1) This paragraph applies where the trustees of a collective money purchase scheme that is pursuing continuity option 1 do not receive a notice from a beneficiary in accordance with paragraph 14.



(2) The trustees may discharge the scheme's liability to a beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme in the way set out in the default discharge option for the beneficiary without the consent of the beneficiary.

(3) Where the default discharge option for a beneficiary is the way referred to in paragraph 2(2) and the scheme discharges its liability to the beneficiary in this way without the beneficiary's consent, the beneficiary is deemed to have entered into an agreement with the insurer.

#### *Trustees' duty to transfer*

**17.—**(1) If the trustees of a collective money purchase scheme that is pursuing continuity option 1 receive notice from a beneficiary in accordance with paragraph 14, they must arrange for the scheme's liability to the beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme to be discharged as specified in the notice.

(2) If the trustees do not receive notice from a beneficiary in accordance with paragraph 14, they must arrange for the scheme's liability to the beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme to be discharged in accordance with the default discharge option.

(3) When the trustees have arranged for the scheme's liability to a beneficiary to be discharged in accordance with sub-paragraph (1) or (2) they must notify the beneficiary of—

- (a) the value of the beneficiary's accrued rights to benefits under the scheme;
- (b) any reductions made in accordance with paragraph 5(3); and
- (c) who has or will become liable for the payment of benefits to the beneficiary when the scheme's liability to the beneficiary in respect of the value of the beneficiary's accrued rights to benefits under the scheme is discharged.

#### *Administration charges*

**18.—**(1) This paragraph applies to the trustees or managers of any occupational pension scheme (the "proposed receiving scheme") to which the trustees of a collective money purchase scheme that is pursuing continuity option 1 (the "transferring scheme") propose to transfer the value of beneficiaries' accrued rights to benefits under the scheme, under a default discharge option.

(2) The trustees of the proposed receiving scheme must provide to the Regulator, in accordance with this paragraph, a document setting out the level of administration charges that applies in relation to members of the proposed receiving scheme.

(3) The document must be provided before the end of 28 days beginning with the date on which the trustees of the proposed receiving scheme receive the notice under paragraph 11.

(4) The document must set out for each charge structure all levels of administration charges (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, and the reason for imposing them;
- (c) for any third-party charges, and the reason for imposing them; and
- (d) for any other type of administration charge in the scheme, and the reason for imposing it.

(5) Where the proposed receiving scheme is a Master Trust scheme the charges must be set out as at the most recent date, not falling within a triggering event period in relation to the transferring scheme, on which the receiving scheme submitted a continuity strategy to the Regulator.

(6) In all other cases the charges must be set out as at the date the triggering event occurred in relation to the transferring scheme as a result of which continuity option 1 is being pursued.

- (7) The levels must be set out on an annualised basis.
- (8) Where there is a discounted level, the reason for charging the lower level must also be set out.
- (9) The document must include a statement explaining—
  - (a) how the scheme will be in compliance with section 45(2) of the Act (prohibition on increasing charges etc during triggering event period);
  - (b) whether the scheme is to be liable for the costs mentioned in section 45(4) of the Act; and
  - (c) if the scheme is to be liable for those costs, how it is to meet them.

#### *Trustee discharge*

**19.** Where the trustees of a collective money purchase scheme that is pursuing continuity option 1 have discharged the scheme's liability in respect of a beneficiary's accrued rights to benefits under the scheme in accordance with the requirements of section 36 of the Act (continuity option 1: discharge of liabilities and winding up), the trustees cease to have any further obligation to provide benefits in relation to those rights.

#### *Winding up*

**20.** As soon as practicable after the trustees of a collective money purchase scheme that is pursuing continuity option 1 have, in accordance with section 36 of the Act, discharged the scheme's liability in respect of beneficiaries' accrued rights to benefits under the scheme, they must wind up the scheme.

#### *Regulator's power to direct*

**21.—(1)** The Regulator may direct the trustees of a collective money purchase scheme to do anything they are permitted or required to do by this Schedule where continuity option 1 is being pursued.

(2) The trustees of a collective money purchase scheme must comply with a direction issued by the Regulator requiring them to do anything permitted or required by this Schedule.

#### *Civil penalties*

**22.** Section 10 of the 1995 Act (civil penalties) applies to a person who fails to comply with a requirement imposed by this Schedule, including where the requirement is contained in a direction made under it.

## SCHEDULE 7

Regulation 35

Collective money purchase benefits: amendments to secondary legislation

### **Amendments to the Occupational Pension Schemes (Scheme Administration) Regulations 1996**

**1.—(1)** The Occupational Pension Schemes (Scheme Administration) Regulations 1996<sup>(31)</sup> are amended as follows.

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<sup>(31)</sup> [S.I. 1996/1715](#).

(2) In regulation 1(2) (citation, commencement and interpretation)(**32**), in the appropriate place insert—

““collective money purchase scheme” means a scheme or a section of a scheme which is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021;”.

(3) In regulation 3 (exemptions from the professional advisers requirements)(**33**)—

(a) in paragraph (2)(a), after “schemes” insert “other than to the extent to which they provide collective money purchase benefits”;

(b) after paragraph (2) insert—

“(2A) In paragraph (2), “collective money purchase benefits” are benefits which are collective money purchase benefits for the purposes of Part 1 of the Pension Schemes Act 2021.”.

(4) In regulation 23 (annual statement regarding governance)(**34**), in paragraph (1)—

(a) in sub-paragraph (a), after “default arrangement” insert “(if any)”;

(b) in sub-paragraph (aa)(i), after “default arrangement” insert “(if any)”;

(c) in sub-paragraph (aa)(ii), after “fund” insert “(if any)”;

(d) in sub-paragraph (c)(i), after “default arrangement” insert “(if any)”;

(e) in sub-paragraph (c)(ii), after “fund” insert “(if any)”;

(f) after sub-paragraph (c) insert—

“(cza) for a collective money purchase scheme, state—

(i) the charges and transaction costs applicable to the scheme; and

(ii) the return on investments, after deduction of any charges or transaction costs relating to those investments, relating to the fund, having regard to guidance issued by the Secretary of State under section 113(2A) of the Pension Schemes Act 1993;”.

(5) In regulation 25 (assessment of charges and transaction costs)(**35**)—

(a) in paragraph (1A), after “specified scheme” insert “other than a collective money purchase scheme”;

(b) after paragraph (1A) insert—

“(1ZA) As part of the assessment referred to in paragraph (1)(b), the trustees of a collective money purchase scheme must assess how the administrative and governance criteria set out in paragraph (1C) are met by the scheme.”;

(c) in paragraph (1C)—

(i) in sub-paragraph (c), after “strategy” insert “(if any)”;

(ii) after sub-paragraph (c) insert—

“(ca) for a collective money purchase scheme, the appropriateness of the investment principles governing decisions about investments for the purposes of the scheme, as set out in the latest statement prepared in

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(32) Regulation 1 was amended by [S.I. 1997/786](#), [S.I. 2005/2426](#), [S.I. 2005/3377](#), [S.I. 2006/778](#), [S.I. 2015/575](#), [S.I. 2015/879](#), [S.I. 2016/427](#) and [S.I. 2019/192](#).

(33) Regulation 3 was amended by [S.I. 1997/786](#), [S.I. 1998/1494](#), [S.I. 2001/3649](#), [S.I. 2005/2426](#), [S.I. 2006/778](#), [S.I. 2010/499](#) and [S.I. 2011/672](#).

(34) Regulation 23 was inserted by [S.I. 2015/879](#) and amended by [S.I. 2016/427](#), [S.I. 2018/233](#) and [S.I. 2021/1070](#).

(35) Regulation 25 was inserted by [S.I. 2015/879](#) and amended by [S.I. 2021/1070](#).

accordance with regulation 2 (statement of investment principles) of the Occupational Pension Schemes (Investment) Regulations 2005.”.

### **Amendment of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010**

2.—(1) The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010<sup>(36)</sup> are amended as follows.

(2) In regulation 32E<sup>(37)</sup> (alternative requirements for a money purchase scheme)—

- (a) at the beginning of paragraph (1), insert “Subject to paragraph (1A),”; and
- (b) after paragraph (1) insert—

“(1A) In relation to a money purchase scheme—

- (a) to which section 20 of the Act applies; and
- (b) which provides collective money purchase benefits,

the prescribed alternative requirement is the first, second or third set of requirements below or, in respect of any jobholders accruing rights to benefits under a collective money purchase scheme, the requirements set out in regulation 32EA.”.

(3) After regulation 32E insert—

#### **“Alternative quality requirements for a collective money purchase scheme**

**32EA.**—(1) In relation to—

- (a) a money purchase scheme to which section 20 of the Act applies, under which all the benefits that may be provided are collective money purchase benefits;
- (b) a money purchase scheme to which section 20 of the Act applies, in respect of any jobholders accruing rights to benefits under a collective money purchase scheme; and
- (c) a hybrid scheme—
  - (i) to the extent that requirements within section 24(1)(a) of the Act apply; and
  - (ii) in respect of any jobholders accruing rights to benefits under a collective money purchase scheme,

the prescribed alternative requirement is set out in paragraph (2).

(2) The requirement is, subject to paragraphs (3) and (4), that taking all relevant jobholders together, the contributions by, or on behalf of, or in respect of, those relevant jobholders over the certification period are of a total amount equal to at least the prescribed percentage (specified in paragraph (7)) of the applicable category of total relevant earnings for those jobholders (specified in paragraph (6)) over that period.

(3) Where there is or was, as the case may be, a difference in the rights to benefits accruing under a collective money purchase scheme for different groups of relevant jobholders over the certification period as regards all or any of the criteria set out in paragraph (4)(a), and that difference (or those differences taken together) mean that there is or was as the case may be a material difference in the cost of providing those rights, the relevant jobholders for the purposes of paragraph (2) are the relevant jobholders in each such group.

(4) For the purposes of paragraph (3)—

<sup>(36)</sup> S.I. 2010/772.

<sup>(37)</sup> Regulation 32E was inserted by S.I. 2012/1257 and amended by S.I. 2019/192.

- (a) the criteria are—
  - (i) the rate at which rights to benefits under a collective money purchase scheme accrue or accrued;
  - (ii) the provision of survivor's benefits;
  - (iii) the normal pension age;
  - (iv) the definition of 'pensionable earnings' used by the scheme;
  - (v) differences in the calculation or methodology applying to the revaluation and indexation of benefits;
  - (vi) the calculation of service; and
  - (vii) the terms for retirement before normal pension age; and
- (b) whether a difference in cost is a material difference is to be determined by the actuary.

(5) Where, after the certification period begins (whether or not it has ended), a change is made to the benefits provided to the relevant jobholders under a collective money purchase scheme, the certification period is a period of 18 months commencing with the day on which that change takes effect.

(6) For the purposes of paragraph (2), the relevant earnings are the earnings which the scheme uses to determine pensionable earnings for the purposes of providing collective money purchase benefits to the relevant jobholders, provided that they must be equal to or more than those relevant jobholders' earnings in one of the following categories—

- (a) qualifying earnings;
- (b) basic pay;
- (c) basic pay in circumstances where, taking all the relevant jobholders together, the pensionable earnings of those jobholders constitute at least 85% of the earnings of those jobholders in the certification period;
- (d) earnings; or
- (e) basic pay above—
  - (i) the amount of the lower earnings limit specified for the purposes of section 5(1)(a)(i) of the Social Security Contributions and Benefits Act 1992<sup>(38)</sup> (earnings limits and thresholds for Class 1 contributions); or
  - (ii) the amount of the basic state pension specified in the first figure in section 44(4) of that Act (category A retirement pension).

(7) For the purposes of this regulation, the prescribed percentage is, in relation to the category of earnings described in—

- (a) paragraph (6)(a) and (c), 10%;
- (b) paragraph (6)(b), 11%;
- (c) paragraph (6)(d), 9%; and
- (d) paragraph (6)(e), 13%.

(8) Where the scheme does not provide pension benefits payable on the death of a relevant jobholder, the respective percentages mentioned in paragraph (7) are to be reduced by 1%.”

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<sup>(38)</sup> 1992 c. 4. Section 5 was substituted by paragraph 1 of Schedule 9 to the Welfare Reform and Pensions Act 1999 (c. 30); subsection (1) was amended by section 1 and Schedule 2 to the National Insurance Contributions Act 2008 (c. 16).

(4) In regulation 32G**(39)** (alternative requirements for a hybrid scheme), in paragraph (1) at the end add “or, in respect of any jobholders accruing rights to benefits under a collective money purchase scheme, the set of requirements set out in regulation 32EA”.

(5) In regulation 32H**(40)** (scheme not to be treated as satisfying the relevant quality requirement in certain circumstances)—

(a) after paragraph (1) insert—

“(1A) Where—

- (a) a certificate has been given in relation to an employer and its relevant jobholders with respect to an alternative quality requirement under regulation 32EA;
- (b) the Regulator is of the view that, when the certificate was given, there were not reasonable grounds for a person to be of the opinion that the scheme was able to satisfy the requirement referred to in regulation 32EA(2); and
- (c) in relation to all or any part of the certification period, the requirement referred to in regulation 32EA(2) was not met,

the Regulator may give to the employer a notice as referred to in paragraph (8A).”;

(b) in paragraph (2), after “paragraph (5)” insert “or paragraph (8A)”;

(c) after paragraph (8) insert—

“(8A) The notice referred to is a notice requiring the employer, within the period specified in the notice, to pay to the trustees or managers of the scheme the shortfall between the contributions that are required to be paid by the employer and the relevant jobholders under the scheme, and the contributions that were required to be paid to meet the requirement in regulation 32EA(2) during the certification period.

(8B) A notice as referred to in paragraph (8A) may also require the employer, within a period specified in the notice, to amend the certificate, under regulation 32B, so that the certification period ends on a specified day, being a day before the last day of the certification period but not before the last day of the relevant payment period.

(8C) A notice as referred to in paragraph (8A) must be copied to the trustees or manager of the scheme.

(8D) Where a notice as referred to in paragraph (8A) has been given and the employer amends the certificate under regulation 32B(5) so that the certification period ends before the last day of the relevant payment period—

- (a) the relevant payment period shall be treated as though it ended on the last day of the new certification period;
- (b) the employer must, within a period of two weeks beginning with the day on which the certificate was amended, notify the Regulator in writing of the amendment; and
- (c) the Regulator may decide to alter the period, as set out in the notice as referred to in paragraph (8A), within which the employer must pay a shortfall of contributions as referred to in that paragraph.”;

(d) in paragraph (9), after “paragraph (8)(c)” insert “or paragraph (8D)(c)”;

(e) in paragraph (10)(a), after “paragraph (5)” insert “or paragraph (8A)”.

(6) Regulation 32K**(41)** (definitions) is amended as follows—

(a) in the appropriate places insert—

**(39)** Regulation 32G was inserted by [S.I. 2012/1257](#).

**(40)** Regulation 32H was inserted by [S.I. 2012/1257](#).

**(41)** Regulation 32K was inserted by [S.I. 2012/1257](#).

““actuary” means an actuary appointed by the scheme or the employer;”;

““collective money purchase scheme” has the meaning set out in section 1(2) of the Pension Schemes Act 2021(42);”;

(b) in the definition of “alternative requirement”, after “by regulation 32E,” insert “32EA,”.

### **Amendments to the Occupational Pension Schemes (Charges and Governance) Regulations 2015**

3. The Occupational Pension Schemes (Charges and Governance) Regulations 2015(43) are amended in accordance with paragraphs 4 to 22.

4.—(1) Regulation 2 (interpretation)(44) is amended as follows.

(2) In paragraph (1)—

(a) in the appropriate places insert—

““the 2021 Act” means the Pension Schemes Act 2021(45);”;

““collective contribution percentage charge” has the meaning given in regulation 5A(3);”;

““collective flat fee charge” has the meaning given in regulation 5A(3);”;

““collective existing rights charge” has the meaning given in regulation 5A(3);”;

““collective money purchase benefit” has the meaning given in section 1(1) of the 2021 Act;”;

““collective money purchase scheme” has the meaning given in section 1(2) of the 2021 Act;”;

““collective single charge structure” has the meaning given in regulation 5A(2);”;

““qualifying collective money purchase scheme” has the meaning given in regulation 3A;”;

““qualifying section employer” means an employer in relation to whom a section of a pension scheme, which is a collective money purchase scheme for the purposes of section 1(2)(b) of the 2021 Act, is being used by a qualifying scheme in relation to at least one of its jobholders;”;

““specified section” means a relevant scheme that is a collective money purchase scheme for the purposes of section 1(2)(b) of the 2021 Act in which at least one qualifying section employer participates;”;

(b) in the definition of “contributing member”—

(i) after “relevant scheme” insert “, that is not a collective money purchase scheme,”;

and

(ii) after “money purchase benefits” insert “(other than collective money purchase benefits);”;

(c) in the definition of “performance fee”(46)—

(i) at the beginning of sub-paragraph (b) insert “in the case of a relevant scheme that is not a collective money purchase scheme,”;

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(42) 2021 c. 1.

(43) S.I. 2015/879.

(44) Regulation 2 was amended by S.I. 2016/304, 2017/774 and 2021/1070.

(45) 2021 c. 1.

(46) The definition of “performance fee” was inserted by S.I. 2021/1070.

- (ii) at the end of sub-paragraph (b) insert “or”; and
- (iii) after sub-paragraph (b) insert—
  - “(c) in the case of a relevant scheme that is a collective money purchase scheme, is not calculated by reference to the value of members’ rights under the scheme;”;
- (d) in the definition of “specified scheme” after “relevant scheme” insert “, that is not a collective money purchase scheme for the purposes of section 1(2)(b) of the 2021 Act.”.
- (3) In paragraph (2)—
  - (a) in sub-paragraph (a), after “money purchase benefits” insert “other than collective money purchase benefits”;
  - (b) omit “or” at the end of sub-paragraph (a);
  - (c) in sub-paragraph (b), after “money purchase benefits,” insert “other than collective money purchase benefits,”;
  - (d) at the end of sub-paragraph (b), omit the comma and insert “; or”; and
  - (e) after sub-paragraph (b) insert—
    - “(c) a collective money purchase scheme,”.
- (4) After paragraph (2), insert—
  - “(2A) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 1 of the 2021 Act (see section 1(2)(b)) is to be treated for the purposes of these Regulations as a separate scheme.”.
- (5) After paragraph (3), insert—
  - “(3A) Where, in these Regulations, a collective flat fee charge is to be calculated and these Regulations have applied to a member of a qualifying collective money purchase scheme for a period of less than a charges year, the charge associated with that member for the purposes of calculating the collective flat fee charge (see regulation 6A(4)(a)) must be calculated on a pro rata basis.”.
- (6) At the end of paragraph (4), omit the full-stop and insert—
  - “;
  - (d) a charge under a collective single charge structure;
  - (e) a collective existing rights charge.”.
- (7) In paragraph (5)(47) for “When a charge under a single charge structure is” substitute “When the charges in paragraph (5A) are”.
- (8) After paragraph (5), insert—
  - “(5A) For the purposes of paragraph (5), the charges are—
    - (a) a charge under a single charge structure;
    - (b) a charge under a collective single charge structure.”.
- 5. In regulation 3 (default arrangement)(48), in paragraph (9), at the appropriate place insert—
  - ““relevant scheme” does not include a collective money purchase scheme;”.
- 6. After regulation 3, insert—

(47) Paragraph 5 was inserted by [S.I. 2021/1070](#).

(48) Regulation 3 was amended by [S.I. 2015/889](#).



### “Qualifying collective money purchase schemes

**3A.**—(1) A relevant scheme is a “qualifying collective money purchase scheme” if—

- (a) it is a collective money purchase scheme; and
- (b) it is being used—
  - (i) as a qualifying scheme in relation to one or more relevant jobholders; or
  - (ii) by a qualifying scheme in relation to one or more relevant jobholders.

(2) Where a scheme is a qualifying collective money purchase scheme, it continues to be such a scheme regardless of whether it continues to satisfy paragraph (1)(b).

(3) Where a qualifying collective money purchase scheme that is not divided into sections (an “undivided scheme”) becomes a scheme that is divided into sections, any section of that scheme that is a collective money purchase scheme (for the purposes of section 1(2) of the 2021 Act) under which collective money purchase benefits may be provided to persons who were members of the undivided scheme (to whom such benefits were payable under that scheme), is a qualifying collective money purchase scheme regardless of whether it satisfies paragraph (1)(b).

(4) In this regulation, “relevant jobholder” means a jobholder of one or more of the employers that is using the qualifying collective money purchase scheme.”.

**7.** In the heading to Chapter 1 of Part 2 (default arrangements, non-contributing members and payments to advisers)(**49**), after “default arrangements,” insert “qualifying collective money purchase schemes,”.

**8.**—(1) Regulation 4 (restrictions on charges)(**50**) is amended as follows.

(2) In paragraph (1)—

- (a) after “relevant scheme” insert “, that is not a collective money purchase scheme,”;
- (b) in sub-paragraph (a), after “this Chapter” insert “, with the exception of regulation 6A”;
- (c) in sub-paragraph (b), for “regulation” substitute “regulations 5A and”.

(3) After paragraph (1), insert—

“(1ZA) Subject to regulation 9, the trustees of a relevant scheme that is a qualifying collective money purchase scheme must not impose or permit to be imposed on the members of that scheme, in respect of members’ rights under the scheme, charges which—

- (a) exceed the limits specified in this Chapter, with the exception of regulation 6; or
- (b) are of a description prohibited by this Chapter, with the exception of regulations 5, 11 and 11A.”.

(4) In paragraph (2)—

- (a) after “regulations” insert “5A, 6A, 7A, 8A,”;
- (b) in sub-paragraph (a), after “relevant scheme” insert “, that is not a collective money purchase scheme,”.

(5) In paragraph (3)—

- (a) at the beginning of the paragraph omit “The” and insert “For the purposes of paragraph (2), the”;
- (b) for “5 to 9” substitute “5, 6, 7, 8 and 9”;

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(49) The heading to Chapter 1 was inserted by [S.I. 2017/774](#).

(50) Regulation 4 was amended by [S.I. 2016/304](#), [2017/774](#) and [2018/240](#).

- (c) in sub-paragraph (a), after “another” insert “(unless the receiving scheme is a qualifying collective money purchase scheme)”.
- (6) After paragraph (3), insert—
- “(3A) If the receiving scheme referred to in paragraph (3) is a collective money purchase scheme (other than a qualifying collective money purchase scheme), this regulation and regulations 5, 6, 7, 8 and 9 apply in respect of the value of a member’s rights, following any such transfer, as if the person was a member of a relevant scheme within the meaning of regulation 2(2)(a) or (b) to whom this Chapter applies in accordance with paragraph (2) (unless the person is a pensioner member of the receiving scheme, including a person who has become a pensioner member of the receiving scheme after the transfer).
- (3B) Subject to paragraph (3C), the application of this regulation and regulations 5A, 6A, 7A, 8A and 9 in respect of a member of a relevant scheme that is a qualifying collective money purchase scheme is not affected by a transfer of the member’s rights to a relevant scheme, where the member has not given consent to the transfer.
- (3C) Paragraph (3B) does not apply in respect of the transfer of a member’s rights from a qualifying collective money purchase scheme to a relevant scheme (within the meaning of regulation 2(2)(a) or (b))—
- (a) if this Chapter (with the exception of regulations 5A, 6A, 7A, 8A, 11 and 11A) would otherwise apply to the member by virtue of paragraph (2) upon their rights being transferred; or
- (b) if the member is a pensioner member of the qualifying collective money purchase scheme.
- (3D) If a member’s rights are transferred from a relevant scheme that is a qualifying collective money purchase scheme to a relevant scheme that is not a qualifying collective money purchase scheme (and paragraph (3B) applies in respect of the transfer of that member’s rights)—
- (a) this regulation and regulations 5A, 6A, 7A, 8A and 9 apply in respect of that member (and any other members whose rights have been transferred at the same time) as if the person was a member, or as if the persons were members, of a qualifying collective money purchase scheme (unless the relevant scheme to which the rights are transferred is not a collective money purchase scheme and any such person is a pensioner member of the scheme, including a person who has become a pensioner member of the scheme after the transfer); and
- (b) references in this regulation and in regulations 5A, 6A, 7A, 8A and 9 to members of a qualifying collective money purchase scheme are to be read as references to those members subject to the transfer.”.
- (7) In paragraph (4), for “This Chapter does not apply to a member of a relevant scheme” substitute “This Chapter does not apply to a member of a relevant scheme that is not a collective money purchase scheme”.
- (8) After paragraph (4), insert—
- “(5) In this regulation, “pensioner member” has the meaning given in section 124(1) of the 1995 Act(51).”.
- 9.** In the heading to regulation 5 (prohibited charge structures), after “prohibited charge structures” insert “- default arrangements”.
- 10.** After regulation 5 (prohibited charge structures), insert—

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(51) The definition of “pensioner member” was amended by paragraph 8 of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c. 19) and S.I. 2006/745.

**“Prohibited charge structures – qualifying collective money purchase schemes**

**5A.**—(1) The description of the charges which are prohibited under regulation 4(1ZA)(b) are charges under a charge structure other than—

- (a) a collective single charge structure; or
- (b) a collective combination charge structure.

(2) In these Regulations, a collective single charge structure is one under which charges are calculated solely by reference to the value of members’ rights under the scheme.

(3) In these Regulations, a collective combination charge structure is one under which charges are calculated by reference to the value of members’ rights under the scheme (‘a collective existing rights charge’) and either—

- (a) calculated as a percentage of the value of contributions made by or on behalf or in respect of members of the scheme towards the scheme (‘a collective contribution percentage charge’); or
- (b) calculated by reference to a period of time and not by reference to contributions made by or on behalf or in respect of members of the scheme towards the scheme or to the value of members’ rights under the scheme (‘a collective flat fee charge’).

(4) For the purposes of regulation 4(1ZA)(b), neither the charge structure, nor the type of collective combination charge structure, that applies to the members may be changed during a charges year.”

**11.** In the heading to regulation 6 (limits on charges), after “limits on charges” insert “- default arrangements”.

**12.** After regulation 6 (limits on charges) insert—

**“Limits on charges – qualifying collective money purchase schemes**

**6A.**—(1) The limits on charges for the purposes of regulation 4(1ZA)(a) are the limits specified in this regulation and the trustees must choose whether to assess them in accordance with regulation 7A or 8A (but see regulation 8A(7)).

(2) The limit in the case of a collective single charge structure is 0.75% annually of the value of members’ rights under the scheme.

(3) The limit in the case of a collective combination charge structure whose charges fall within regulation 5A(3)(a) is—

- (a) in relation to the collective contribution percentage charge, 2.5% of contributions made by or on behalf or in respect of members allocated under the scheme—
  - (i) annually, or
  - (ii) where, in relation to a charges year, regulation 4 does not apply in respect of members for the whole of the year, in the period for which that regulation applies; and
- (b) in relation to the collective existing rights charge, the percentage annually of the value of members’ rights under the scheme which is the figure in Column 2 of the following table which corresponds to the collective contribution percentage charge rate in Column 1 of that table which is imposed on the members.

<i>Column 1</i>	<i>Column 2</i>
<i>Collective contribution percentage charge rate (%)</i>	<i>Collective existing rights charge rate (%)</i>
1 or lower	0.6
Higher than 1 but no higher than 2	0.5
Higher than 2 but no higher than 2.5	0.4

(4) The limit in the case of a collective combination charge structure whose charges fall within regulation 5A(3)(b) is—

- (a) in relation to the collective flat fee charge, £25 annually per member; and
- (b) in relation to the collective existing rights charge, the percentage annually of the value of members' rights under the scheme which is the figure in Column 2 of the following table which corresponds to the annual collective flat fee charge per member in Column 1 of that table which is imposed on the members.

<i>Column 1</i>	<i>Column 2</i>
<i>Collective flat fee charge (£ per member)</i>	<i>Collective existing rights charge rate (%)</i>
10 or less	0.6
More than 10 but no more than 20	0.5
More than 20 but no more than 25	0.4”.

**13.** In the heading to regulation 7 (assessment of charges), after “assessment of charges” insert “- default arrangements”.

**14.** After regulation 7 (assessment of charges) insert—

**“Assessment of charges – qualifying collective money purchase schemes**

**7A.**—(1) If the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation, the following provisions apply.

(2) Trustees must calculate the value of members' rights under the scheme at reference points set at equal intervals during the charges year of no more than 3 months (but see paragraphs (3), (6) and (7)).

(3) Where trustees change the intervals between reference points chosen for the purposes of paragraph (2) during the charges year, the start of the first new interval must commence on the day following the reference point at the end of the previous interval.

(4) The limit of permitted charges under—

- (a) a collective single charge structure; or
- (b) a collective existing rights charge in a collective combination charge structure,

is exceeded if the charges imposed on the members annually exceed the average of the reference point values multiplied by the applicable percentage.

(5) The applicable percentage is—

- (a) in the case of a collective single charge structure, 0.75%; and
- (b) in the case of a collective existing rights charge in a collective combination charge structure, the percentage in Column 2 of the table—

(i) in regulation 6A(3), where a collective contribution percentage charge is imposed; and

(ii) in regulation 6A(4), where a collective flat fee is imposed.

(6) Where members have rights under the scheme at only one reference point referred to in paragraph (2), paragraph (4) is to be read as if the words “average of the reference point values” read “value at the reference point”.

(7) Where members have no rights under the scheme at a reference point referred to in paragraph (2), paragraph (4) is to be read as if the words “average of the reference point values” read “value of members’ rights under the scheme on the final day of the charges year or, if there are no members who have such rights on that day, on the final day on which there are members who have such rights.”.

(8) In this regulation monthly, 2 monthly and 3 monthly intervals are to be treated as equal intervals.

(9) Paragraph (10) applies where the charges imposed on the members include a performance fee payable at the end of the investment period.

(10) For the purposes of paragraph (4), the charge imposed annually on the members in relation to the performance fee may be treated as X divided by Y, where—

(a) X is the sum of the performance fees accrued in relation to the return earned by the assets in the scheme (“the relevant assets”) during the relevant charges year and each of the preceding charges years, up to a maximum of four preceding charges years, and

(b) Y is—

(i) 5, or

(ii) where the investment period is less than 5 charges years, the number of charges years in the relevant period.

(11) Where the trustees choose to calculate the charge imposed annually on the members in accordance with paragraph (10), the trustees must, at the end of each charges year during the investment period, calculate—

(a) the return earned by the relevant assets during that charges year;

(b) the performance fee which has accrued in relation to that return.

(12) In this regulation, “investment period” means the total period for which the assets in the scheme are invested in an investment for which a performance fee is payable at the end of the investment period.”.

**15.** In the heading to regulation 8 (alternative assessment of charges) after “charges” insert “-default arrangements”.

**16.** After regulation 8 (alternative assessment of charges) insert—

**“Alternative assessment of charges – qualifying collective money purchase schemes**

**8A.—(1)** If the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation, the limit of permitted charges under—

(a) a collective single charge structure; or

(b) a collective existing rights charge in a collective combination charge structure,

is not exceeded if, on the first day of the charges year, the charges regime to be applied to members’ rights under the scheme meets the requirement in paragraph (2) and that charges regime is applied to members’ rights throughout that charges year.

(2) The requirement referred to in paragraph (1) is that the charges regime would not result in charges being imposed on the members exceeding the limit of permitted charges when calculated in accordance with regulation 7A, if the assumptions in paragraph (3) and, if the trustees so choose, the assumption in paragraph (4) are made for the purposes of those calculations.

(3) The assumptions to be made for the purposes of paragraph (2) are—

- (a) the value of members' rights under the scheme will not increase or decrease during the charges year when compared to the value on the first day of the charges year, other than as a result of charges imposed on the members; and
- (b) all the members may leave the scheme at any time during that charges year.

(4) The assumption which may be made for the purposes of paragraph (2) is that, where the charges include a performance fee to which regulation 7A(10) applies, the charge to be imposed on the members in relation to the forthcoming charges year will be X divided by Y, where—

- (a) X is the sum of the performance fees accrued in relation to the return earned by the assets in the scheme during each of the years preceding the charges year in question, up to a maximum of five preceding charges years, and
- (b) Y is—
  - (i) 5, or
  - (ii) where the investment period is less than 5 charges years, the number of charges years in the relevant period.

(5) In this regulation, “charges regime” means—

- (a) the charges to be imposed, and any rebates of charges to be applied, as a percentage of the value of members' rights under the scheme;
- (b) when they are to be deducted from, or added to, the value of members' rights throughout the charges year;
- (c) how the value of members' rights will be calculated for the purposes of imposing or rebating charges.

(6) Where the first contribution made by or on behalf or in respect of members to the scheme is made after the first day of the charges year, paragraphs (1) and (3)(a) are to be read as if “on the first day of the charges year” read “on the date on which the first contribution is made in a charges year”.

(7) Where the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation but, during the charges year the charges regime fails to meet the requirement in paragraph (2), the trustees must assess charges for the whole charges year in accordance with regulation 7A.”

**17.—(1)** Regulation 9 (member agreement for services)(**52**) is amended as follows.

(2) In paragraph (1), after “Subject to paragraph (3),” insert “in the case of a member of a relevant scheme (that is not a collective money purchase scheme),”.

(3) After paragraph (1), insert—

“(1A) Subject to paragraph (3), in the case of the members of a relevant scheme (that is a qualifying collective money purchase scheme), the restrictions in regulation 4 (with the exception of regulation 4(1A)) do not apply in relation to advice or a service for which

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(52) Regulation 9 was amended by [S.I. 2017/774](#).

a member has entered into an agreement with a person for the provision of that advice or service, provided the conditions in paragraph (2) are satisfied.”.

(4) In paragraph (2)—

(a) for “paragraph (1)” substitute “paragraphs (1) and (1A)”;

(b) in sub-paragraph (b)(ii), after “default arrangement” insert “or under a qualifying collective money purchase scheme, as applicable”.

(5) In paragraph (4), at the end of sub-paragraph (e), omit the full-stop and insert—

“.

(f) a transfer out of a qualifying collective money purchase scheme into a different scheme;

(g) a transfer into a qualifying collective money purchase scheme.”.

**18.** In paragraph (1) of regulation 10 (charge limits adjustment), after “relevant scheme” insert “, that is not a collective money purchase scheme,”.

**19.** In paragraph (5) of regulation 11 (non-contributing members), in the definition of “relevant scheme”, for “regulation 2(2)” substitute “regulation 2(2)(a) or (b)”.

**20.—**(1) Regulation 11A (payments to advisers)(**53**) is amended as follows.

(2) In paragraph (1), the existing text after “applies” becomes sub-paragraph (a).

(3) At the end of that sub-paragraph, insert “; or”.

(4) After that sub-paragraph, insert—

“(b) to a member of a specified section, if the member is, or was, a worker of a qualifying section employer who participates or has participated in the section.”.

(5) In paragraph (3), after “specified scheme” in both places that it occurs, insert “or specified section, as applicable”.

**21.** In regulation 11B (relevant information)(**54**), after paragraph (7) insert—

“(8) In this regulation, in relation to a specified section, references to a “specified scheme” are to be read as references to a “specified section”.”.

**22.** For paragraph (5) of regulation 11C (member agreement for payments to advisers)(**55**) substitute—

“(5) In this regulation—

“charge limits” has the meaning given in regulation 10(10); and

“specified scheme” does not include a relevant scheme that is a collective money purchase scheme.”.

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(53) Regulation 11A was inserted by [S.I. 2016/304](#) and was amended by [S.I. 2017/774](#).

(54) Regulation 11B was inserted by [S.I. 2016/304](#) and was amended by [S.I. 2017/774](#).

(55) Regulation 11C was inserted by [S.I. 2016/304](#) and was amended by [S.I. 2017/774](#).