



# Pension Schemes Act 2017

## 2017 CHAPTER 17

### PART 1

#### MASTER TRUSTS

##### *Definition of a Master Trust scheme*

#### **1 Master Trust schemes: definition**

- (1) In this Act, “Master Trust scheme” means an occupational pension scheme which—
  - (a) provides money purchase benefits (whether alone or in conjunction with other benefits),
  - (b) is used, or intended to be used, by two or more employers,
  - (c) is not used, or intended to be used, only by employers which are connected with each other, and
  - (d) is not a relevant public service pension scheme.
- (2) Where a Master Trust scheme provides money purchase benefits in conjunction with other benefits, references in the following provisions of this Act to a Master Trust scheme are to a Master Trust scheme only to the extent that it provides money purchase benefits, except as provided in section 39(2) to (4).
- (3) For the purposes of this section, an employer (“A”) is connected with another employer (“B”)—
  - (a) where A is, or has been, a group undertaking in relation to B within the meaning of section 1161(5) of the Companies Act 2006, or
  - (b) in circumstances specified in regulations made by the Secretary of State.
- (4) In this section—

“employer”, in relation to an occupational pension scheme, means a person who employs or engages persons who are, or are entitled to become, members of the scheme;

“money purchase benefits” has the same meaning as in the Pension Schemes Act 1993 (see section 181 of that Act);

“occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993 (see section 1(1) of that Act);

“relevant public service pension scheme” has the meaning given in section 2.

(5) Regulations under this section are subject to affirmative resolution procedure.

## **2 Relevant public service pension schemes**

(1) For the purposes of section 1, a pension scheme is a relevant public service pension scheme if it falls within subsection (2) or (3).

(2) A scheme falls within this subsection if it is a public service pension scheme within the meaning of the Pension Schemes Act 1993 (see section 1(1) of that Act).

(3) A scheme falls within this subsection if it is—

- (a) a scheme under section 1 of the Public Service Pensions Act 2013 (new public service schemes),
- (b) a new public body pension scheme (as defined in section 30 of that Act), or
- (c) a statutory pension scheme which is connected with a scheme referred to in paragraph (a) or (b) (and for this purpose “statutory pension scheme” and “connected” have the meanings given in that Act; see sections 37 and 4(6) of that Act).

(4) But a scheme does not fall within subsection (3) if it is a scheme specified in an order made under section 318(6)(b) of the Pensions Act 2004 (schemes excluded from definition of “public service pension scheme”).

*Authorisation: applications etc*

## **3 Prohibition on operating a scheme unless authorised**

(1) A person may not operate a Master Trust scheme unless the scheme is authorised.

(2) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who breaches subsection (1).

(3) If the Pensions Regulator becomes aware that a Master Trust scheme is operating without authorisation, it must notify the trustees of the scheme that the scheme is not authorised.

(4) The notification must include an explanation that it is a triggering event for the purposes of sections 20 to 33 and of the trustees’ duties under those sections.

(5) For the purposes of this Part, a person “operates” a Master Trust scheme if the person—

- (a) accepts money from members or employers (or prospective members or employers), in respect of fees, charges, contributions or otherwise, in relation to the scheme, or
- (b) enters into an agreement with an employer that relates to the provision of pension savings for employees or other workers,

and references to a scheme that is “operating” or “in operation” are to be construed accordingly.

#### **4 Application for authorisation**

- (1) The trustees of a Master Trust scheme may apply to the Pensions Regulator for authorisation.
- (2) The application must include the following—
  - (a) the scheme’s latest accounts;
  - (b) the latest accounts of each scheme funder;
  - (c) the scheme’s business plan (see section 9);
  - (d) the scheme’s continuity strategy (see section 12).
- (3) In considering an application, the Pensions Regulator may take into account any matters it considers appropriate, including—
  - (a) additional information provided by the applicant, and
  - (b) subsequent changes to the application or to any information provided by the applicant.
- (4) The application must be made in the manner and form specified by the Pensions Regulator.
- (5) The Secretary of State may make regulations setting out—
  - (a) other information to be included in an application, and
  - (b) the application fee payable to the Pensions Regulator.
- (6) Regulations under this section are subject to negative resolution procedure.

#### **5 Decision on application**

- (1) Where an application is made for authorisation of a Master Trust scheme under section 4, the Pensions Regulator must decide whether it is satisfied that the scheme meets the authorisation criteria.
- (2) The Pensions Regulator must make that decision within the period of six months beginning with the day on which it received the application.
- (3) The authorisation criteria are—
  - (a) that the persons involved in the scheme are fit and proper persons (see section 7),
  - (b) that the scheme is financially sustainable (see section 8),
  - (c) that each scheme funder meets the requirements set out in section 10,
  - (d) that the systems and processes used in running the scheme are sufficient to ensure that it is run effectively (see section 11), and
  - (e) that the scheme has an adequate continuity strategy (see section 12).
- (4) If the Pensions Regulator is satisfied that the Master Trust scheme meets the authorisation criteria, it must—
  - (a) grant the authorisation,
  - (b) notify the applicant of its decision, and
  - (c) add the scheme to its list of authorised Master Trust schemes (see section 13).

- (5) If the Pensions Regulator is not satisfied that the Master Trust scheme meets the authorisation criteria, it must—
- (a) refuse to grant the authorisation, and
  - (b) notify the applicant of its decision.
- (6) A notification under subsection (5) must also include—
- (a) the reasons for the decision, and
  - (b) details of the right of referral to the First-tier Tribunal or Upper Tribunal (see section 6).

## **6 Referral to Tribunal of refusal to grant authorisation**

- (1) If the Pensions Regulator refuses to grant authorisation to a Master Trust scheme, the decision may be referred to the Tribunal by—
- (a) the trustees, or
  - (b) any other person who appears to the Tribunal to be directly affected by the decision.
- (2) In this section “the Tribunal”, in relation to a referral under subsection (1), means—
- (a) the First-tier Tribunal, in any case where it is determined by or under Tribunal Procedure Rules that the First-tier Tribunal is to hear the reference;
  - (b) the Upper Tribunal, in any other case.

### *Authorisation criteria*

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

- (1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that the persons involved in a Master Trust scheme are fit and proper persons (see section 5(3)(a)).
- (2) The Pensions Regulator must assess whether each of the following is a fit and proper person to act in relation to the scheme in the capacity mentioned—
- (a) a person who establishes the scheme;
  - (b) a trustee;
  - (c) a person who (alone or with others) has power to appoint or remove a trustee;
  - (d) a person who (alone or with others) has power to vary the terms of the trust under which the scheme is established (where the scheme is established under a trust);
  - (e) a person who (alone or with others) has power to vary the scheme (where the scheme is not established under a trust);
  - (f) a scheme funder;
  - (g) a scheme strategist;
  - (h) a person acting in a capacity specified in regulations made by the Secretary of State.
- (3) The Pensions Regulator may also assess whether each of the following is a fit and proper person to act in relation to the scheme in the capacity mentioned—
- (a) a person who promotes or markets the scheme;

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- (b) a person acting in a capacity specified in regulations made by the Secretary of State.
- (4) In assessing whether a person is a fit and proper person to act in a particular capacity, the Pensions Regulator—
  - (a) must take into account any matters specified in regulations made by the Secretary of State, and
  - (b) may take into account such other matters as it considers appropriate (including, in particular, matters relating to a person connected with that person).
- (5) For the purposes of this section a person (“A”) is connected with another person (“B”) if—
  - (a) A is an associate of B;
  - (b) where B is a company, A is a director or shadow director of B or an associate of a director or shadow director of B;
  - (c) A is a trustee of an occupational pension scheme established under a trust and—
    - (i) the beneficiaries of the trust include B or an associate of B, or
    - (ii) the terms of the trust confer a power that may be exercised for the benefit of B or an associate of B.
- (6) In this section—
  - “associate” has the meaning given by section 435 of the Insolvency Act 1986;
  - “director” and “shadow director” have the meanings given by section 251 of that Act.
- (7) The first regulations that are made under subsection (4) are subject to affirmative resolution procedure.
- (8) Any subsequent regulations under subsection (4), and regulations under subsections (2) and (3), are subject to negative resolution procedure.

## **8 Financial sustainability requirement**

- (1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that a Master Trust scheme is financially sustainable (see section 5(3)(b)).
- (2) In order to be satisfied that a Master Trust scheme is financially sustainable, the Regulator must be satisfied—
  - (a) that the business strategy relating to the scheme is sound, and
  - (b) that the scheme has sufficient financial resources to meet the costs mentioned in subsection (3).
- (3) The costs are—
  - (a) the costs of setting up and running the scheme, and
  - (b) in the event of a triggering event occurring—
    - (i) the costs of complying with the duties in sections 20 to 33, and

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- (ii) the costs of continuing to run the scheme for such period (which must be at least six months and no more than two years) as the Regulator thinks appropriate for the scheme.
- (4) In deciding whether it is satisfied about the matters mentioned in subsection (2) (a) and (b), the Pensions Regulator must take into account any matters specified in regulations made by the Secretary of State.
- (5) The regulations may include provision specifying—
  - (a) the information that the Regulator must take into account, such as—
    - (i) the scheme’s business plan and supporting documents and information (see section 9);
    - (ii) the scheme’s accounts and the accounts of a scheme funder;
  - (b) requirements to be met by the scheme or by a scheme funder relating to its financing, such as requirements relating to assets, capital or liquidity.
- (6) The first regulations that are made under this section are subject to affirmative resolution procedure.
- (7) Any subsequent regulations under this section are subject to negative resolution procedure.

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

- (1) A scheme strategist of a Master Trust scheme must prepare a business plan for the scheme.
- (2) The Secretary of State may make regulations setting out—
  - (a) information that must be included in a business plan, and
  - (b) any other requirements with which a business plan must comply.
- (3) The scheme strategist must review the business plan at least once a year, and revise it if appropriate.
- (4) The scheme strategist must revise the business plan at any time if there is any significant change to the information included in it.
- (5) The business plan, and any revisions to it, must be approved by each scheme funder, any other scheme strategist and the trustees.
- (6) The scheme strategist or the trustees must provide the Pensions Regulator with the most recent business plan, and any supporting information or documents required by the Regulator—
  - (a) on application for authorisation (see section 4);
  - (b) within three months of the plan being revised;
  - (c) at any other time, on request from the Regulator.
- (7) The first regulations that are made under this section are subject to affirmative resolution procedure.
- (8) Any subsequent regulations under this section are subject to negative resolution procedure.

## **10 Scheme funder requirements**

- (1) This section makes provision about the requirements that a scheme funder must meet in order for the scheme to meet the authorisation criterion mentioned in section 5(3)(c).
- (2) The first requirement is that the scheme funder is a body corporate or a partnership that is a legal person under the law by which it is governed.
- (3) The second requirement is that the scheme funder only carries out activities that relate directly to Master Trust schemes in relation to which it is a scheme funder or prospective scheme funder.
- (4) The Secretary of State may make regulations providing for exceptions from the second requirement.
- (5) The regulations may include provision excepting a scheme funder from the second requirement—
  - (a) where the scheme funder meets additional requirements specified in the regulations (such as requirements relating to a scheme funder's financial position, its financial arrangements with the Master Trust scheme in question or its business activities);
  - (b) where the scheme funder applies to the Regulator and provides the Regulator with information specified in the regulations, or such other information as the Regulator may require in order to satisfy the Regulator that the Master Trust scheme is financially sustainable.
- (6) The Secretary of State may make regulations setting out requirements relating to a scheme funder's accounts.
- (7) The regulations may include provision—
  - (a) setting out requirements relating to the audit of accounts;
  - (b) applying some or all of the provisions of Parts 15 and 16 of the Companies Act 2006 (accounts and reports; audit), with or without modifications.
- (8) The first regulations that are made under subsection (4) are subject to affirmative resolution procedure.
- (9) Any subsequent regulations under subsection (4), and regulations under subsection (6), are subject to negative resolution procedure.

## **11 Systems and processes requirements**

- (1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that the systems and processes used in running the scheme are sufficient to ensure that it is run effectively (see section 5(3)(d)).
- (2) In deciding whether it is satisfied that the systems and processes used in running the scheme are sufficient for those purposes, the Pensions Regulator must take into account any matters specified in regulations made by the Secretary of State.
- (3) Regulations about the systems used in running a scheme may include provision about—
  - (a) the features and functionality required of the IT systems used in running the scheme;

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- (b) standards that those IT systems must meet (for example, in relation to quality and security of data);
  - (c) the maintenance of those IT systems.
- (4) Regulations about the processes used in running a scheme may include provision about—
- (a) records management;
  - (b) risk management;
  - (c) resource planning;
  - (d) processes relating to transactions and investment decisions;
  - (e) processes relating to the appointment and removal of trustees, and their professional development;
  - (f) processes relating to the roles and responsibilities of a scheme strategist and a scheme funder;
  - (g) processes relating to the appointment, removal, roles and responsibilities of—
    - (i) persons (other than those mentioned in paragraphs (e) and (f)) involved in running the scheme, and
    - (ii) persons providing services in relation to the scheme.
- (5) The first regulations that are made under this section are subject to affirmative resolution procedure.
- (6) Any subsequent regulations under this section are subject to negative resolution procedure.

## **12 Continuity strategy requirement**

- (1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that a Master Trust scheme has an adequate continuity strategy (see section 5(3)(e)).
- (2) A continuity strategy is a document addressing how the interests of members of the scheme are to be protected if a triggering event occurs in relation to the scheme (see section 21).
- (3) A continuity strategy must be prepared by a scheme strategist.
- (4) A continuity strategy must include a section setting out the levels of administration charges that apply in relation to members of the scheme.
- (5) The strategy must set out those levels of charges in the manner specified in regulations made by the Secretary of State.
- (6) A continuity strategy must—
- (a) contain such other information as may be specified in regulations made by the Secretary of State, and
  - (b) be prepared in accordance with regulations made by the Secretary of State.
- (7) A scheme strategist must keep the continuity strategy under review and revise it if appropriate.
- (8) The continuity strategy, and any revisions to it, must be approved by each scheme funder, any other scheme strategist and the trustees.



- (9) A scheme strategist or the trustees must provide the continuity strategy to the Pensions Regulator—
  - (a) on application for authorisation (see section 4),
  - (b) within three months of the strategy being revised, and
  - (c) at any other time, on request from the Regulator.
- (10) The first regulations that are made under this section are subject to affirmative resolution procedure.
- (11) Any subsequent regulations under this section are subject to negative resolution procedure.

#### *Ongoing supervision of Master Trust schemes*

### **13 List of authorised schemes**

- (1) The Pensions Regulator must maintain and publish a list of authorised Master Trust schemes.
- (2) The list—
  - (a) must identify each authorised Master Trust scheme by name, and
  - (b) may include any other information that the Pensions Regulator considers appropriate.

### **14 Requirement to submit annual accounts**

- (1) The trustees of an authorised Master Trust scheme must send the scheme's accounts to the Pensions Regulator.
- (2) The accounts must be sent to the Regulator no later than two months after they are obtained by the trustees.
- (3) A scheme funder of a Master Trust scheme must send its accounts to the Pensions Regulator.
- (4) The scheme funder's accounts must be sent to the Regulator—
  - (a) no later than nine months after the end of the financial year to which they relate, or
  - (b) within such other period as may be specified in regulations made by the Secretary of State.
- (5) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.
- (6) Regulations under this section are subject to negative resolution procedure.

### **15 Requirement to submit supervisory return**

- (1) The Pensions Regulator may by notice in writing require the trustees of an authorised Master Trust scheme to submit a supervisory return.
- (2) The Secretary of State may make regulations setting out the information that the Regulator may require in a supervisory return.

- (3) The notice must specify—
  - (a) the information required to be included in the return,
  - (b) the manner and form in which the return must be submitted, and
  - (c) the time period (of at least 28 days) within which the return must be submitted.
- (4) The trustees of an authorised Master Trust scheme may not be required to submit a supervisory return more than once in any 12 month period.
- (5) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to submit a supervisory return when required to do so.
- (6) Regulations under this section are subject to negative resolution procedure.

## **16 Duty to notify Regulator of significant events**

- (1) Where a person mentioned in subsection (2) becomes aware of the fact that a significant event has occurred in relation to an authorised Master Trust scheme, the person must give notice of that fact, in writing, to the Pensions Regulator as soon as reasonably practicable.
- (2) The persons are—
  - (a) a trustee of the scheme;
  - (b) a person who (alone or with others) has power to appoint or remove a trustee;
  - (c) a person who (alone or with others) has power to vary the terms of the trust under which the scheme is established (where the scheme is established under a trust);
  - (d) a person who (alone or with others) has power to vary the scheme (where the scheme is not established under a trust);
  - (e) a scheme funder;
  - (f) a scheme strategist;
  - (g) a person who provides legal, financial or actuarial advice in relation to the scheme;
  - (h) a person who manages the scheme administration services;
  - (i) a person acting in a capacity specified in regulations made by the Secretary of State.
- (3) The Secretary of State must make regulations setting out the events that constitute significant events for the purposes of this section.
- (4) No duty to which a person is subject is to be regarded as contravened merely because of any information provided to the Pensions Regulator under this section.
- (5) A person is not required by this section to disclose anything in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality of communications) could be maintained in legal proceedings.
- (6) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with subsection (1).
- (7) The first regulations that are made under subsection (3) are subject to affirmative resolution procedure.

- (8) Any subsequent regulations under subsection (3), and regulations under subsection (2), are subject to negative resolution procedure.

## **17 Fixed penalty notice for failure to comply with request for information**

- (1) The Pensions Regulator may issue a fixed penalty notice to a person if it considers that the person has failed to comply with a notice issued under section 72 of the Pensions Act 2004 (provision of information to Regulator on request), so far as relevant to the exercise of any of the Regulator's functions under or by virtue of this Part.
- (2) A fixed penalty notice is a notice requiring the person to whom it is issued to pay a penalty within the period specified in the notice.
- (3) The penalty—
- (a) is to be determined in accordance with regulations made by the Secretary of State, and
  - (b) must not exceed £50,000.
- (4) A fixed penalty notice must—
- (a) state the amount of the penalty;
  - (b) state the date, which must be at least 28 days after the date on which the notice is issued, by which the penalty must be paid;
  - (c) state the period to which the penalty relates;
  - (d) specify the failure to which the penalty relates;
  - (e) notify the person to whom the notice is issued of the review process under section 43 of the Pensions Act 2008 and the right of referral to a tribunal under section 44 of that Act (as applied by subsection (5)).
- (5) The following sections of the Pensions Act 2008 apply to a penalty notice under this section as they apply to a penalty notice under section 40 of that Act—
- (a) section 42 (penalty notices: recovery);
  - (b) section 43 (review of penalty notices);
  - (c) section 44 (references to First-tier Tribunal or Upper Tribunal).
- (6) Regulations under this section are subject to negative resolution procedure.

## **18 Escalating penalty notice for failure to comply with request for information**

- (1) The Pensions Regulator may issue an escalating penalty notice to a person if it considers that the person has failed to comply with a notice issued under section 72 of the Pensions Act 2004 (provision of information to Regulator on request), so far as relevant to the exercise of any of the Regulator's functions under or by virtue of this Part (a "section 72 notice").
- (2) But the Regulator may not issue an escalating penalty notice to a person if—
- (a) the person has exercised the right of referral to a tribunal under section 44 of the Pensions Act 2008 (as applied by section 17(5)) in respect of a fixed penalty notice issued under section 17 in relation to the section 72 notice, and
  - (b) the reference has not been determined.
- (3) An escalating penalty notice is a notice requiring the person to whom it is issued to pay an escalating penalty if the person fails to comply with a section 72 notice.

- (4) An escalating penalty is a penalty which is calculated by reference to a daily rate.
- (5) The daily rate—
  - (a) is to be determined in accordance with regulations made by the Secretary of State, and
  - (b) must not exceed £10,000.
- (6) An escalating penalty notice must—
  - (a) specify the failure to which the penalty relates;
  - (b) state that, if the person fails to comply with the section 72 notice before a specified date, the person will be liable to pay an escalating penalty;
  - (c) state the daily rate of the escalating penalty and the way in which the penalty is calculated;
  - (d) state the date from which the escalating penalty will be payable, which must not be earlier than the date specified in the fixed penalty notice under section 17(4)(b);
  - (e) state that the escalating penalty will continue to be payable at the daily rate until the date on which the person complies with the section 72 notice or such earlier date as the Regulator may determine;
  - (f) notify the person to whom the notice is issued of the review process under section 43 of the Pensions Act 2008 and the right of referral to a tribunal under section 44 of that Act (as applied by subsection (7)).
- (7) The following sections of the Pensions Act 2008 apply to an escalating penalty notice under this section as they apply to an escalating penalty notice under section 41 of that Act—
  - (a) section 42 (penalty notices: recovery);
  - (b) section 43 (review of penalty notices);
  - (c) section 44 (references to First-tier Tribunal or Upper Tribunal).
- (8) Regulations under this section are subject to negative resolution procedure.

## **19 Withdrawal of authorisation**

- (1) If the Pensions Regulator stops being satisfied that an authorised Master Trust scheme meets the authorisation criteria, it may decide to withdraw the scheme’s authorisation.
- (2) A warning notice under the standard procedure or a determination notice under the special procedure given in relation to a decision under subsection (1) must—
  - (a) explain that the issue of the notice is a triggering event for the purposes of sections 20 to 33, and
  - (b) include an explanation of the trustees’ duties under those sections.
- (3) On withdrawal of a scheme’s authorisation, the Pensions Regulator must—
  - (a) notify the trustees that the scheme is no longer authorised, and
  - (b) remove the scheme from the list of authorised Master Trust schemes.
- (4) In this section—
  - “determination notice” has the meaning given by section 98(2)(a) of the Pensions Act 2004;
  - “special procedure” has the meaning given by section 98 of that Act;

“standard procedure” has the meaning given by section 96 of that Act;  
“warning notice” has the meaning given by section 96(2)(a) of that Act.

*Triggering events: continuity*

**20 Triggering event: duties of trustees**

If a triggering event occurs in relation to a Master Trust scheme, the trustees must—

- (a) comply with the notification requirements applicable to them (see section 22),
- (b) comply with the requirements of section 23 (continuity options), and
- (c) comply with the requirements of section 26 (implementation strategy).

**21 Triggering events**

- (1) A triggering event occurs in relation to a Master Trust scheme if—
  - (a) an event within the second column of the table in subsection (6) occurs in relation to it, and
  - (b) the event does not occur within an existing triggering event period for the scheme (subject to subsection (2)).
- (2) An event within item 1, 2 or 3 of the table (notice of decision to withdraw authorisation; notification that scheme is not authorised) is a triggering event even if it occurs within an existing triggering event period.
- (3) A triggering event occurs on the date specified in relation to the event in the third column of the table.
- (4) A “triggering event period” for a Master Trust scheme is a period—
  - (a) starting with the date on which a triggering event occurs in relation to the scheme, and
  - (b) ending with the earliest of the dates given by subsection (5).
- (5) The dates are—
  - (a) the date on which the scheme is wound up;
  - (b) the date on which the trustees receive notification from the Pensions Regulator that the Regulator is satisfied that the triggering event has been resolved (see section 25);
  - (c) in the case of an event within item 1 or 2 of the table (notice of decision to withdraw authorisation), the date on which it becomes clear that authorisation is not to be withdrawn (see section 34).
- (6) The table is—

<i>Item</i>	<i>Triggering event</i>	<i>Date event occurs</i>
1.	The Pensions Regulator issues a warning notice under the standard procedure in respect of a decision to withdraw the scheme’s authorisation.	The date on which the notice is issued.
2.	The Pensions Regulator issues a determination notice under the	The date on which the notice is issued.

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<i>Item</i>	<i>Triggering event</i>	<i>Date event occurs</i>
	special procedure in respect of a decision to withdraw the scheme's authorisation.	
3.	The Pensions Regulator gives a notification under section 3(3) (scheme not authorised).	The date on which the notification is given.
4.	An insolvency event occurs in relation to a scheme funder.	The date on which the insolvency event occurs.
5.	A scheme funder becomes unlikely to continue as a going concern, where the scheme funder is a person or body of a kind that meets requirements prescribed under section 129(1)(b) of the Pensions Act 2004.	The date on which— (a) the scheme funder notifies the Pensions Regulator of that fact, or (b) (if earlier) the trustees or a scheme strategist become aware of that fact.
6.	A scheme funder decides to end the relationship or arrangement with the Master Trust scheme by virtue of which it is a scheme funder.	The date of the decision.
7.	A scheme funder ends the relationship or arrangement with the Master Trust scheme by virtue of which it is a scheme funder.	The date on which— (a) the scheme funder notifies the Pensions Regulator of that fact, or (b) (if earlier) the trustees or a scheme strategist become aware of that fact.
8.	A scheme funder, scheme strategist or the trustees decide that the Master Trust scheme should be wound up, where the person making the decision has power to do so under the scheme or the rules of the scheme.	The date of the decision.
9.	An event occurs which is required or permitted by the scheme or the rules of the scheme to result in the winding up of the Master Trust scheme.	The date on which the event occurs.
10.	The trustees decide that the Master Trust scheme is at risk of failure and so it is necessary for one of the continuity options to be pursued (see section 23).	The date of the decision.

(7) A Master Trust scheme is to be taken to permit the trustees of the scheme to make the decision referred to in item 10 of the table, to the extent that it would not otherwise do so.

(8) In this section—

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“determination notice” has the meaning given by section 98(2)(a) of the Pensions Act 2004;

“special procedure” has the meaning given by section 98 of that Act;

“standard procedure” has the meaning given by section 96 of that Act;

“warning notice” has the meaning given by section 96(2)(a) of that Act.

## 22 Notification requirements

(1) Subsection (2) applies if an event within an item of the table in section 21(6) that is listed in the first column of the table in subsection (3) occurs in relation to a Master Trust scheme.

(2) Each person specified in relation to the event in the second column of the table must notify the Pensions Regulator.

(3) The table is—

<i>Event</i>	<i>Person under duty to notify Pensions Regulator</i>
Item 4 (insolvency event in relation to a scheme funder)	The scheme funder.
Item 5 (scheme funder unlikely to continue as a going concern)	The scheme funder.
Item 6 (scheme funder decides to end relationship or arrangement)	The scheme funder.
Item 7 (scheme funder ends relationship or arrangement)	The scheme funder.
Item 8 (scheme funder, scheme strategist or trustees decide that scheme should be wound up)	The person or persons who take the decision.
Item 10 (trustees decide that it is necessary to pursue continuity option)	The trustees.

(4) If—

(a) an event within an item of the table in section 21(6) that is listed in the first column of the table in subsection (5) occurs in relation to a Master Trust scheme, and

(b) a person specified in relation to the event in the second column of the table becomes aware that the event has occurred,

the person must notify the Pensions Regulator.

(5) The table is—

<i>Event</i>	<i>Persons under duty to notify Pensions Regulator if become aware of event</i>
Item 4 (insolvency event in relation to a scheme funder)	The trustees. A scheme strategist.

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<i>Event</i>	<i>Persons under duty to notify Pensions Regulator if become aware of event</i>
Item 5 (scheme funder unlikely to continue as a going concern)	The trustees. A scheme strategist.
Item 6 (scheme funder decides to end relationship or arrangement)	The trustees. A scheme strategist.
Item 7 (scheme funder ends relationship or arrangement)	The trustees. A scheme strategist.
Item 8 (scheme funder, scheme strategist or trustees decide that scheme should be wound up)	The trustees. A scheme funder. A scheme strategist.
Item 9 (event required or permitted to lead to winding up of scheme)	The trustees. A scheme funder. A scheme strategist.
Item 10 (trustees decide that it is necessary to pursue continuity option)	A scheme funder. A scheme strategist.

- (6) If a triggering event occurs in relation to a Master Trust scheme, the trustees must notify the employers—
- (a) of the occurrence of the event, and
  - (b) of such other matters as may be specified in regulations made by the Secretary of State.
- (7) A notification under this section must be given before the end of the period specified in regulations made by the Secretary of State.
- (8) No duty to which a person is subject is to be regarded as contravened merely because of any information provided to the Pensions Regulator under this section.
- (9) A person is not required by this section to disclose anything in respect of which a claim to legal professional privilege (or, in Scotland, to confidentiality of communications) could be maintained in legal proceedings.
- (10) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.
- (11) Regulations under this section are subject to negative resolution procedure.

## **23 Continuity options**

- (1) If a triggering event occurs in relation to a Master Trust scheme, the trustees must comply with the requirements of this section.
- (2) In the following cases, the trustees must pursue continuity option 1—
- (a) the triggering event is within item 1 or 2 of the table in section 21(6), and the decision to withdraw authorisation has become final (see section 35);
  - (b) the triggering event is within item 3 of that table.
- (3) In those cases, the trustees must pursue continuity option 1 even if—
- (a) the triggering event within item 1, 2 or 3 occurs within the triggering event period for an earlier triggering event, and



- (b) the trustees have already decided to pursue continuity option 2 in respect of the earlier triggering event.
- (4) In any other case, the trustees must decide whether to pursue continuity option 1 or continuity option 2.
- (5) “Continuity option 1” is for—
  - (a) the accrued rights and benefits under the Master Trust scheme of all members of the scheme to be transferred out of the scheme, and
  - (b) the Master Trust scheme to be wound up, in accordance with regulations under section 24.
- (6) “Continuity option 2” is for the triggering event to be resolved (see section 25).
- (7) This section overrides any provision of the Master Trust scheme, to the extent that there is a conflict.
- (8) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.

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

- (1) Where the trustees of a Master Trust scheme are required, or decide, to pursue continuity option 1 they must—
  - (a) identify one or more pension schemes to which (subject to Part 4ZA of the Pension Schemes Act 1993 and to provision made by regulations under subsections (2)(b) and (4)) members’ accrued rights and benefits under the Master Trust scheme are proposed to be transferred, and
  - (b) notify employers and members of the proposed transfer and of such other matters as may be specified in regulations made by the Secretary of State.
- (2) Each pension scheme proposed under subsection (1)(a) must be—
  - (a) a Master Trust scheme, or
  - (b) in such circumstances as may be specified in regulations made by the Secretary of State, a pension scheme that has characteristics specified in regulations made by the Secretary of State (“an alternative scheme”).
- (3) Notification under subsection (1)(b) must be given—
  - (a) in the manner specified in regulations made by the Secretary of State, and
  - (b) before the end of the time period specified in regulations made by the Secretary of State.
- (4) The Secretary of State—
  - (a) must make regulations about how continuity option 1 is to be pursued, in a case where a proposed transfer is to a Master Trust scheme;
  - (b) may make regulations about how continuity option 1 is to be pursued, in a case where a proposed transfer is to an alternative scheme;
  - (c) may make regulations for the purpose of otherwise giving effect to continuity option 1, in either case.
- (5) Regulations under subsection (4)(a) must include provision—
  - (a) for the purpose of ensuring that members of the Master Trust scheme stop accruing rights and receiving benefits under the scheme;

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- (b) conferring rights on all or a specified description of members to opt out of the proposed transfer;
  - (c) conferring rights on all or a specified description of employers to opt out of the proposed transfer;
  - (d) conferring rights on all or a specified description of members to require the trustees to transfer the members' accrued rights and benefits to alternative schemes;
  - (e) conferring rights on all or a specified description of employers to propose the transfer of members' accrued rights to one or more alternative schemes;
  - (f) imposing duties on employers and the trustees to inform members of any such proposal;
  - (g) about how rights conferred by the regulations may be exercised (including the time periods within which they may be exercised);
  - (h) specifying requirements to be met by a scheme proposed by the trustees or an employer (which may include approval or authorisation by the Pensions Regulator in accordance with the regulations);
  - (i) requiring a scheme proposed by the trustees or an employer to provide the Pensions Regulator with a document setting out the levels of administration charges that applied in relation to members of the scheme, in the manner and as at the date specified or described in the regulations;
  - (j) imposing duties on the trustees to notify all or a specified description of employers and members of their rights under the regulations and of members' rights under Part 4ZA of the Pension Schemes Act 1993 (transfers and contribution refunds);
  - (k) about the exercise by the trustees of their power to transfer members' accrued rights and benefits out of a Master Trust scheme in cases where employers and members do not exercise their rights under the regulations or Part 4ZA of the Pension Schemes Act 1993;
  - (l) about the exercise by the trustees of their power to transfer members' accrued rights and benefits out of a Master Trust scheme other than by a transfer to a scheme in a specified description of cases;
  - (m) imposing conditions on the exercise by the trustees of their power to transfer members' accrued rights and benefits out of a Master Trust scheme in a specified description of cases;
  - (n) about the winding up of the Master Trust scheme in circumstances where the accrued rights and benefits of the members are, or are to be, transferred out of the scheme;
  - (o) conferring power on the Pensions Regulator to direct the trustees to do things permitted or required by the regulations.
- (6) Regulations under subsection (4)(b) may include—
- (a) any provision mentioned in subsection (5);
  - (b) provision deeming any member whose accrued rights or benefits are to be transferred to an alternative scheme to have entered into an agreement with a person of a description specified in the regulations.
- (7) In this section references to a transfer of members' accrued rights and benefits out of a Master Trust scheme include references to the trustees complying with obligations imposed on them under Part 4ZA of the Pension Schemes Act 1993.

- (8) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.
- (9) Regulations under this section may provide for the application of section 10 of the Pensions Act 1995 to a person who fails to comply with a requirement imposed by the regulations.
- (10) Regulations under subsections (2)(b) and (4) are subject to affirmative resolution procedure.
- (11) Other regulations under this section are subject to negative resolution procedure.

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

- (1) Where the trustees of a Master Trust scheme decide to pursue continuity option 2, they must attempt to resolve the triggering event.
- (2) The trustees must notify the Pensions Regulator when they consider that the triggering event has been resolved.
- (3) The notification must set out how the trustees consider that the triggering event has been resolved.
- (4) The notification must be given before the end of the period specified in regulations made by the Secretary of State.
- (5) After receiving the notification, the Pensions Regulator must notify the trustees of whether it is satisfied that the triggering event has been resolved.
- (6) The Pensions Regulator may not form the view that a triggering event has been resolved unless it is satisfied that any other event within the table in section 21(6) that has occurred in relation to the Master Trust scheme since the occurrence of the triggering event has also been resolved.
- (7) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to comply with a requirement imposed by this section.
- (8) Regulations under this section are subject to negative resolution procedure.

## **26 Approval of implementation strategy**

- (1) If a triggering event occurs in relation to a Master Trust scheme, the trustees must submit an implementation strategy to the Pensions Regulator for approval.
- (2) But in the case of a triggering event within item 1 or 2 of the table in section 21(6), the trustees must submit an implementation strategy only if the decision to withdraw authorisation has become final (see section 35).
- (3) If a triggering event within item 1, 2 or 3 of the table in section 21(6) occurs within the triggering event period for an earlier triggering event—
  - (a) the trustees are not required to submit an implementation strategy in respect of the earlier triggering event, if they have not done so when the later triggering event occurs;

- (b) any implementation strategy approved by the Pensions Regulator in respect of the earlier triggering event ceases to have effect when the later triggering event occurs.
- (4) The Pensions Regulator may approve an implementation strategy only if it is satisfied that the strategy is adequate (see section 27).
- (5) Where the trustees are required to submit an implementation strategy to the Pensions Regulator for approval, the strategy must be submitted before the end of a period specified in regulations made by the Secretary of State.
- (6) The procedure for approval of an implementation strategy is to be specified by the Pensions Regulator.
- (7) The Pensions Regulator may direct the trustees to comply with the requirements of this section.
- (8) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a direction under subsection (7).
- (9) This section overrides any provision of the Master Trust scheme, to the extent that there is a conflict.
- (10) Regulations under this section are subject to negative resolution procedure.

## **27 Content of implementation strategy**

- (1) This section applies for the purposes of enabling the Pensions Regulator to decide whether it is satisfied that an implementation strategy for a Master Trust scheme is adequate (see section 26(4)).
- (2) An implementation strategy is a document setting out how the interests of members of the scheme are to be protected following the occurrence of the triggering event.
- (3) An implementation strategy must include a section setting out the levels of administration charges that applied in relation to members of the scheme.
- (4) The strategy must set out those levels of administration charges in the manner and as at the date specified or described in regulations made by the Secretary of State.
- (5) An implementation strategy must include information about the following matters—
  - (a) the continuity option that the trustees are required, or decide, to pursue (see section 23);
  - (b) where the trustees are required, or decide, to pursue continuity option 1 (transfer of members' accrued rights and benefits and winding up)—
    - (i) the scheme or schemes to which it is proposed that the accrued rights and benefits be transferred (if known), and
    - (ii) when the accrued rights and benefits are expected to be transferred (where employers and members do not exercise their rights under section 24 of this Act and Part 4ZA of the Pension Schemes Act 1993);
  - (c) where the trustees intend to pursue continuity option 2 (resolving the triggering event), how it is proposed that the triggering event should be resolved.
- (6) An implementation strategy must—

- (a) contain such other information as may be specified in regulations made by the Secretary of State, and
  - (b) be prepared in accordance with regulations made by the Secretary of State.
- (7) Regulations under this section are subject to negative resolution procedure.

## **28 Duty to pursue continuity option**

- (1) When the Pensions Regulator has notified the trustees of a Master Trust scheme that the implementation strategy is approved, the trustees must—
- (a) pursue the continuity option identified in the strategy;
  - (b) take such other steps as are identified in the strategy in order to carry it out.
- (2) The trustees must also make the strategy available to the employers before the end of a period specified in regulations made by the Secretary of State.
- (3) If—
- (a) a triggering event within item 1, 2 or 3 of the table in section 21(6) occurs within the triggering event period for an earlier triggering event, and
  - (b) an implementation strategy has been approved by the Pensions Regulator in respect of the earlier triggering event,
- the trustees are not required to comply with subsections (1) and (2) in respect of the strategy approved in respect of the earlier triggering event.
- (4) The Pensions Regulator may direct the trustees to comply with the requirements of subsection (1), if they fail to do so.
- (5) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a direction under subsection (4).
- (6) This section overrides any provision of—
- (a) the Master Trust scheme, and
  - (b) a Master Trust scheme contract,
- to the extent that there is a conflict.
- (7) Regulations under this section are subject to negative resolution procedure.

## **29 Prohibition on winding up except in accordance with continuity option 1**

- (1) A person may only wind up a Master Trust scheme in accordance with continuity option 1 (see section 24).
- (2) Subsection (1) overrides any provision of a Master Trust scheme to the extent that there is a conflict.
- (3) But subsection (1) does not prevent a Master Trust scheme from being wound up in pursuance of an order under section 11 of the Pensions Act 1995 (power to wind up occupational pension schemes).
- (4) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with subsection (1).

**30 Periodic reporting requirement**

- (1) During a triggering event period for a Master Trust scheme, the trustees must submit periodic reports to the Pensions Regulator.
- (2) The first report must be submitted before the end of a period specified in regulations made by the Secretary of State.
- (3) Subsequent reports must be submitted at intervals specified by the Pensions Regulator.
- (4) The reports must—
  - (a) report on progress in carrying out the implementation strategy,
  - (b) record events or decisions of a description specified in regulations made by the Secretary of State,
  - (c) contain such other information as is specified in regulations made by the Secretary of State, and
  - (d) be made in the manner and form specified by the Pensions Regulator.
- (5) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.
- (6) Regulations under this section are subject to negative resolution procedure.

**31 Pause orders**

- (1) This section applies during a triggering event period for a Master Trust scheme.
- (2) The Pensions Regulator may make a pause order in relation to the scheme if either of the following two conditions is met.
- (3) Condition 1 is that the Pensions Regulator is satisfied that making a pause order will help the trustees to carry out the implementation strategy.
- (4) Condition 2 is that the Pensions Regulator is satisfied that—
  - (a) there is, or is likely to be if a pause order is not made, an immediate risk to the interests of members under the scheme or the assets of the scheme, and
  - (b) it is necessary to make a pause order to protect the interests of the generality of the members of the scheme.
- (5) A pause order is an order that during the period for which it has effect one or more of the following directions has effect—
  - (a) a direction that no new members (or no specified classes of new members) are to be admitted to the scheme;
  - (b) a direction that no further contributions or payments (or no further specified contributions or payments) are to be paid towards the scheme by or on behalf of any employers or members (or any specified employers or members);
  - (c) a direction that any amount (or any specified amount) which—
    - (i) corresponds to any contribution which would be due to be paid towards the scheme on behalf of a member but for a direction under paragraph (b), and
    - (ii) has been deducted from a payment of any earnings in respect of an employment,
 is to be repaid to the member in question by the employer;

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- (d) a direction that no benefits (or no specified benefits) are to be paid to or in respect of any members (or any specified members) under the scheme rules;
  - (e) a direction that—
    - (i) no transfers (or no specified transfers) of any member’s rights under the scheme rules are to be made from the scheme,
    - (ii) no transfer payments (or no specified transfer payments) in respect of any member’s rights under the scheme rules are to be made from the scheme, or
    - (iii) no other steps (or no specified other steps) are to be taken to discharge any liability of the scheme to or in respect of a member of the scheme in respect of pensions or other benefits.
- (6) In subsection (5)(b)—
- (a) the references to contributions do not include contributions due to be paid before the order takes effect, and
  - (b) the references to payments towards a scheme include payments in respect of pension credits where the person entitled to the credit is a member of the scheme.
- (7) A direction under subsection (5)(e) may provide that transfers or specified transfers of, or transfer payments or specified transfer payments in respect of, any member’s rights under the scheme rules may not be made from the scheme unless the amounts paid out from the scheme in respect of the transfers or transfer payments are determined in a specified manner and the transfers or transfer payments satisfy such other conditions as may be specified.
- (8) Schedule 1 makes further provision about pause orders.
- (9) In this section—
- “earnings” has the meaning given by section 181(1) of the Pension Schemes Act 1993;
  - “pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;
  - “specified” means specified in the pause order.

## **32 Prohibition on new employers during triggering event period**

- (1) During a triggering event period for a Master Trust scheme, neither the trustees nor a scheme funder nor a scheme strategist may—
- (a) permit a new person to become an employer in relation to the scheme, or
  - (b) enter into an agreement under which a new person will become an employer in relation to the scheme after the end of the triggering event period.
- (2) A “new person” is a person who was not an employer in relation to the scheme on the date on which the triggering event occurred.
- (3) Section 10 of the Pensions Act 1995 (civil penalties) applies to a person who fails to comply with subsection (1).

### 33 Prohibition on increasing charges etc during triggering event period

- (1) During a triggering event period for a Master Trust scheme, the trustees must not—
  - (a) impose any administration charges on or in respect of members at levels above those set out in the implementation strategy,
  - (b) impose any new administration charges on or in respect of members, or
  - (c) impose any administration charges on or in respect of a member in consequence of the member leaving, or deciding to leave, the scheme during that period.
- (2) The trustees of a receiving scheme that is a Master Trust scheme must not—
  - (a) impose any administration charges on or in respect of members at levels above those set out in the document provided to the Regulator by virtue of regulations under section 24(5)(i), or
  - (b) impose any new administration charges on or in respect of members, for the purposes of meeting any of the costs mentioned in subsection (3).
- (3) The costs are costs for which a receiving scheme is liable which—
  - (a) were incurred by the transferring scheme, or
  - (b) relate directly to the transfer of members' accrued rights or benefits from the transferring scheme.
- (4) The Secretary of State may by regulations make provision about—
  - (a) how levels of administration charges are to be calculated for the purposes of this section;
  - (b) how to determine for the purposes of subsection (2) the purposes for which charges are increased or imposed;
  - (c) how to determine whether costs for which a receiving scheme is liable fall within subsection (3)(a) or (b).
- (5) This section overrides any provision of—
  - (a) the Master Trust scheme, and
  - (b) a Master Trust scheme contract,to the extent that there is a conflict.
- (6) The Secretary of State may by regulations apply some or all of the provisions of this section to a receiving scheme that has characteristics specified in regulations under section 24(2)(b).
- (7) Section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee who fails to comply with subsection (1) or (2).
- (8) In this section—

“receiving scheme” means a pension scheme that—

  - (a) receives a transfer of the accrued rights or benefits of members of a transferring scheme during a triggering event period for the transferring scheme, and
  - (b) was proposed by the trustees of the transferring scheme, or by employers in relation to that scheme, as a scheme to which those rights or benefits should be transferred;

“transferring scheme” means a Master Trust scheme the trustees of which, following a triggering event, are pursuing continuity option 1.



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- (9) Regulations under subsection (6) are subject to affirmative resolution procedure.  
 (10) Other regulations under this section are subject to negative resolution procedure.

*Decisions on withdrawal of authorisation: timing*

**34 When it becomes clear that authorisation not to be withdrawn**

- (1) Where a triggering event within item 1 or 2 of the table in section 21(6) occurs in relation to a Master Trust scheme, this section applies for determining the date on which it becomes clear that authorisation is not to be withdrawn (see section 21(5)(c)).  
 (2) That date is the date given in relation to the event by the third column of the table in subsection (3), in the circumstances set out in relation to the event in the second column of that table.  
 (3) The table is—

<i>Triggering event</i>	<i>Circumstances</i>	<i>Date</i>
Item 1 (issue of warning notice under the standard procedure)	<ol style="list-style-type: none"> <li>1. The Pensions Regulator makes a determination not to withdraw the scheme’s authorisation, and</li> <li>2. there is no referral of the determination to the Tribunal within the time period allowed for doing so.</li> </ol>	The date of the Regulator’s determination.
Item 2 (issue of determination notice under the special procedure)	<ol style="list-style-type: none"> <li>1. The Pensions Regulator, on a review under section 99 of the Pensions Act 2004, makes a determination that the scheme’s authorisation should not be withdrawn, and</li> <li>2. there is no referral of the Regulator’s determination to the Tribunal within the time period allowed for doing so.</li> </ol>	The date of the Regulator’s determination.
Item 1 or 2	<ol style="list-style-type: none"> <li>1. There is a referral of the Regulator’s determination to the Tribunal, and</li> <li>2. the Tribunal makes a determination the effect of which is that the scheme’s authorisation should not be withdrawn, and</li> <li>3. either—                             <ol style="list-style-type: none"> <li>(a) no appeal is brought against the Tribunal’s determination within the time period allowed for doing so, or</li> </ol> </li> </ol>	The date of the Tribunal’s determination.

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<i>Triggering event</i>	<i>Circumstances</i>	<i>Date</i>
Item 1 or 2	<p>(b) an appeal is brought within that time period but is later withdrawn.</p> <ol style="list-style-type: none"> <li>1. There is an appeal against the Tribunal’s determination, and</li> <li>2. the effect of the appeal is that the scheme’s authorisation should not be withdrawn.</li> </ol>	The date on which the appeal is finally disposed of.

- (4) In this section “the Tribunal” has the meaning given by—
- (a) section 96(7) of the Pensions Act 2004, in a case where the standard procedure applies;
  - (b) section 99(13) of that Act, in a case where the special procedure applies.

### 35 When a decision to withdraw authorisation becomes final

- (1) Where a triggering event within item 1 or 2 of the table in section 21(6) occurs in relation to a Master Trust scheme, this section applies for the purposes of determining the date on which a decision to withdraw authorisation becomes final (see sections 23(2)(a) and 26(2)).
- (2) That date is the date given in relation to the event by the third column of the table in subsection (3), in the circumstances set out in relation to the event in the second column of that table.
- (3) The table is—

<i>Triggering event</i>	<i>Circumstances</i>	<i>Date</i>
Item 1 (issue of warning notice under the standard procedure)	<ol style="list-style-type: none"> <li>1. The Pensions Regulator makes a determination to withdraw the scheme’s authorisation, and</li> <li>2. there is no referral of the determination to the Tribunal within the time period allowed for doing so.</li> </ol>	The date of the Regulator’s determination.
Item 2 (issue of determination notice under the special procedure)	<ol style="list-style-type: none"> <li>1. The Pensions Regulator, on a review under section 99 of the Pensions Act 2004, makes a determination the effect of which is that the scheme’s authorisation should be withdrawn, and</li> <li>2. there is no referral of the Regulator’s determination to the Tribunal within the time period allowed for doing so.</li> </ol>	The date of the Regulator’s determination.
Item 1 or 2	<ol style="list-style-type: none"> <li>1. There is a referral to the Tribunal, and</li> </ol>	The date of the Tribunal’s determination.

<i>Triggering event</i>	<i>Circumstances</i>	<i>Date</i>
Item 1 or 2	2. the Tribunal makes a determination the effect of which is that the scheme’s authorisation should be withdrawn, and 3. either— (a) no appeal is brought against the Tribunal’s determination within the time period allowed for doing so, or (b) an appeal is brought within that time period but is later withdrawn.  1. There is an appeal against the Tribunal’s determination, and 2. the effect of the appeal is that the scheme’s authorisation should be withdrawn.	The date on which the appeal is finally disposed of.

- (4) In this section “the Tribunal” has the meaning given by—
- (a) section 96(7) of the Pensions Act 2004, in a case where the standard procedure applies;
  - (b) section 99(13) of that Act, in a case where the special procedure applies.

*Supplementary*

**36 Fraud compensation**

- (1) The Secretary of State may by regulations modify sections 182 to 187 of the Pensions Act 2004 (fraud compensation) as they apply in relation to—
  - (a) Master Trust schemes;
  - (b) schemes to which some or all of the provisions of this Part apply by virtue of section 40.
- (2) Regulations under this section are subject to negative resolution procedure.

**37 Master trusts in operation on commencement: transitional provision**

Schedule 2 makes provision about the application of this Part in relation to Master Trust schemes that are in operation before the date on which section 3 comes into force.

**38 Minor and consequential amendments**

- (1) Schedule 3 makes minor and consequential amendments relating to this Part.
- (2) The Secretary of State may by regulations make provision that is consequential upon any provision of this Part.
- (3) Regulations under this section may amend, repeal or revoke any provision of—
  - (a) an Act passed before or in the same session as this Act;

- (b) subordinate legislation (within the meaning of the Interpretation Act 1978) made before the passing of this Act.
- (4) Regulations under this section that contain provision mentioned in subsection (3)(a) are subject to affirmative resolution procedure.
- (5) Otherwise, regulations under this section are subject to negative resolution procedure.

### 39 Interpretation of Part 1

(1) In this Part—

the “accounts” of a Master Trust scheme means the accounts audited by the auditor of the scheme (and see subsection (2));

the “accounts” of a scheme funder means—

- (a) in a case where regulations under section 10(6) apply to the scheme funder, its accounts prepared in accordance with those regulations;
- (b) in any other case, its accounts prepared in accordance with the requirements of the Companies Act 2006;

“accrued rights” has the meaning given by section 100D of the Pension Schemes Act 1993;

“administration charge” has the meaning given by paragraph 1 of Schedule 18 to the Pensions Act 2014;

“authorisation” means authorisation under section 5;

“authorisation criteria” has the meaning given in section 5(3);

“continuity option 1” and “continuity option 2” have the meanings given in section 23;

“employer” has the meaning given in section 1;

“implementation strategy” has the meaning given in section 27;

“insolvency event” has the meaning given by section 121 of the Pensions Act 2004;

“Master Trust scheme” has the meaning given in section 1;

“Master Trust scheme contract” means a contract between the trustees of the scheme and a person providing services in relation to the scheme;

“member” has the meaning given by section 124 of the Pensions Act 1995 (read with regulations made under section 125(4) of that Act);

“occupational pension scheme” has the meaning given in section 1;

“operate”, in relation to a Master Trust scheme, has the meaning given in section 3;

“pause order” means an order under section 31;

“pension scheme” has the meaning given by section 1(5) of the Pension Schemes Act 1993;

“scheme funder”, in relation to a Master Trust scheme, means a person who—

- (a) is liable to provide funds to or in respect of the scheme in circumstances where administration charges received from or in respect of members are not sufficient to cover the costs of establishing or running the scheme, or
- (b) is entitled to receive the profits of the scheme in circumstances where those charges exceed those costs;

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*Status: This is the original version (as it was originally enacted).*

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“scheme rules” has the meaning given by section 318(2) and (3) of the Pensions Act 2004;

“scheme strategist”, in relation to a Master Trust scheme, means a person who is responsible for making business decisions relating to the commercial activities of the scheme;

“triggering event” has the meaning given in section 21;

“triggering event period” has the meaning given in section 21(4);

“trustee”, in relation to a Master Trust scheme which is not a scheme established under a trust, means a manager of the scheme.

- (2) In relation to a Master Trust scheme which provides money purchase benefits in conjunction with other benefits, references in this Part to the scheme’s accounts are to be read as references to the accounts of the scheme as a whole.
- (3) The reference in section 10(3) to activities that relate directly to Master Trust schemes is, in its application to a Master Trust scheme which provides money purchase benefits in conjunction with other benefits, to be read as a reference to activities that relate directly to the scheme as a whole.
- (4) This Part applies to a Master Trust scheme—
  - (a) which provides money purchase benefits in conjunction with other benefits, and
  - (b) for which there is no power to wind up the scheme to the extent only that it provides money purchase benefits,as if references to winding up the scheme, or to the scheme being wound up, were to ceasing to operate the scheme, or the scheme ceasing to operate, to the extent that it provides money purchase benefits.
- (5) The Secretary of State may make regulations providing—
  - (a) that other descriptions of person may be treated as scheme funders for the purposes of this Part;
  - (b) that a person who would otherwise be a scheme funder may be treated as not being one, either generally or in circumstances specified in the regulations.
- (6) Regulations under this section are subject to affirmative resolution procedure.

#### **40 Regulations modifying application of Part 1**

- (1) The Secretary of State may make regulations—
  - (a) applying some or all of the provisions of this Part to pension schemes (other than Master Trust schemes) that have the characteristics set out in the regulations, or
  - (b) disapplying some or all of those provisions from Master Trust schemes that have the characteristics set out in the regulations.
- (2) The Secretary of State may make regulations which provide for two or more pension schemes to be treated as a single Master Trust scheme for the purposes of this Part, in the circumstances set out in the regulations.
- (3) Those circumstances may include—
  - (a) the schemes being under common control;
  - (b) the schemes being subject to common rules;

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- (c) the schemes being provided by the same service provider.
- (4) Regulations under this section are subject to affirmative resolution procedure.

## **PART 2**

### ADMINISTRATION CHARGES

#### **41 Power to override contract terms**

- (1) Paragraph 6 of Schedule 18 to the Pensions Act 2014 (power to restrict charges or impose requirements in relation to schemes: overriding provision) is amended as follows.
- (2) After sub-paragraph (1) insert—
  - “(1A) The Secretary of State may by regulations provide that specified provisions override any term of a relevant contract to the extent that it conflicts with them.”
- (3) In sub-paragraph (2), at the end insert “or (1A)”.
- (4) After sub-paragraph (2) insert—
  - “(3) “Relevant contract” means a contract between the trustees or managers of a relevant scheme and a person providing services in relation to the scheme.”

## **PART 3**

### GENERAL

#### **42 Regulations: general provisions**

- (1) A power to make regulations under this Act is exercisable by statutory instrument.
- (2) Regulations under Part 1 may—
  - (a) make different provision for different purposes;
  - (b) include incidental, supplementary, consequential, transitional, transitory or saving provision;
  - (c) confer a discretion on a person.
- (3) Where regulations under Part 1 are subject to “negative resolution procedure” the statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Where regulations under Part 1 are subject to “affirmative resolution procedure” the regulations may not be made unless a draft of the instrument containing them has been laid before and approved by a resolution of each House of Parliament.
- (5) Any provision that may be made by regulations under Part 1 subject to negative resolution procedure may be made by regulations under Part 1 subject to affirmative resolution procedure.

### **43 Extent**

This Act extends to England and Wales and Scotland.

### **44 Commencement**

- (1) The following provisions come into force on the day this Act is passed—
  - (a) the following provisions as they apply to existing Master Trust schemes within the meaning of Schedule 2—
    - (i) sections 1 and 2 (definition of a Master Trust scheme);
    - (ii) sections 17 and 18 (penalty notices);
    - (iii) sections 20 to 22, 25 and 33, as modified by Schedule 2 (triggering events: notification requirements and prohibition on increasing charges);
    - (iv) paragraphs 5 and 8 of Schedule 3 (power of Regulator to request information), and section 38 as it applies to those paragraphs;
    - (v) section 39 (interpretation);
  - (b) paragraphs 1 to 7 of Schedule 2, and section 37 as it applies to those paragraphs (Master Trusts operating before commencement: transitional provisions);
  - (c) paragraphs 1 to 4, 5 and 12 of Schedule 3, and section 38 as it applies to those paragraphs (amendments to definitions of “scheme rules”);
  - (d) section 41 (power to override contract terms);
  - (e) this Part.
- (2) To the extent not already commenced by subsection (1), Part 1 comes into force on such day or days as the Secretary of State may by regulations appoint.
- (3) The Secretary of State may by regulations make transitional, transitory and saving provision in connection with the coming into force of any provision of this Act.
- (4) Regulations under this section may make—
  - (a) incidental and supplementary provision, and
  - (b) different provision for different purposes.

### **45 Short title**

- (1) This Act may be cited as the Pension Schemes Act 2017.