

SCHEDULES

SCHEDULE 10

Section 123

FUNDING OF DEFINED BENEFIT SCHEMES

PART 1

AMENDMENTS OF PART 3 OF THE PENSIONS ACT 2004

- 1 Part 3 of the Pensions Act 2004 (scheme funding) is amended as follows.
2 Before section 222 insert—

“221A Funding and investment strategy

- (1) The trustees or managers must determine, and from time to time review and if necessary revise, a strategy for ensuring that pensions and other benefits under the scheme can be provided over the long term.

This is referred to in this Part as a “funding and investment strategy”.

- (2) The strategy must, in particular, specify—
- (a) the funding level the trustees or managers intend the scheme to have achieved as at the relevant date or relevant dates, and
 - (b) the investments the trustees or managers intend the scheme to hold on the relevant date or relevant dates.
- (3) In subsection (2)—
- (a) “funding level” means the ratio of the scheme’s assets to its liabilities;
 - (b) “relevant date” means a date determined in accordance with regulations.
- (4) Provision may be made by regulations—
- (a) requiring the trustees or managers of a scheme, in determining or revising a funding and investment strategy, to take into account prescribed matters and follow prescribed principles;
 - (b) as to the level of detail required in a funding and investment strategy;
 - (c) as to the period within which a funding and investment strategy must be determined;
 - (d) requiring a funding and investment strategy to be reviewed, and if necessary revised, at such intervals and on such occasions as may be prescribed.
- (5) The provision that may be made by virtue of subsection (4)(a) includes provision requiring the trustees or managers, in specifying a funding level

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for the purposes of subsection (2)(a), to adopt prescribed actuarial methods or assumptions.

- (6) Where any requirement of this section is not complied with, section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee or manager who has failed to take all reasonable steps to secure compliance.

221B Statement of strategy

- (1) The trustees or managers must, as soon as reasonably practicable after determining or revising the scheme's funding and investment strategy, prepare a written statement of—
- (a) the scheme's funding and investment strategy, and
 - (b) the supplementary matters set out in subsection (2).
- (2) The supplementary matters are—
- (a) the extent to which, in the opinion of the trustees or managers, the funding and investment strategy is being successfully implemented and, where it is not, the steps they propose to take to remedy the position (including details as to timing);
 - (b) the main risks faced by the scheme in implementing the funding and investment strategy and how the trustees or managers intend to mitigate or manage them;
 - (c) reflections of the trustees or managers on any significant decisions taken by them in the past that are relevant to the funding and investment strategy (including any lessons learned that have affected other decisions or may do so in the future);
 - (d) such other matters as may be prescribed.
- (3) In this Part—
- (a) a statement under subsection (1) is referred to as a “statement of strategy”;
 - (b) the text included in a statement of strategy by virtue of subsection (1)(a) is referred to as “Part 1” of the statement;
 - (c) the text included in a statement of strategy by virtue of subsection (1)(b) is referred to as “Part 2” of the statement.
- (4) The trustees or managers must from time to time, and at such times and on such occasions as may be prescribed—
- (a) review Part 2 of the scheme's statement of strategy, and
 - (b) if necessary in the light of that review, revise that Part and prepare a replacement statement of strategy incorporating it.
- (5) The trustees or managers must consult the employer when preparing or revising Part 2 of a statement of strategy.
- (6) A statement of strategy prepared for a trust scheme must be signed on behalf of the trustees by a person who—
- (a) is the chair of the trustees, and
 - (b) meets such other conditions as may be prescribed.
- (7) Where subsection (6) cannot be complied with because the trustees of a trust scheme do not have a chair, they must appoint one.

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- (8) Provision may be made by regulations—
- (a) requiring the trustees or managers of a scheme, in preparing or revising Part 2 of a statement of strategy, to take into account prescribed matters and follow prescribed principles;
 - (b) as to the level of detail required in Part 2 of a statement of strategy;
 - (c) as to the form of a statement of strategy;
 - (d) requiring the trustees or managers of a scheme to send a statement of strategy to the Regulator at such times and on such occasions as may be prescribed.
- (9) Where any requirement of this section is not complied with, section 10 of the Pensions Act 1995 (civil penalties) applies to a trustee or manager who has failed to take all reasonable steps to secure compliance.”
- 3 (1) Section 222 (the statutory funding objective) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) The scheme’s technical provisions shall be calculated in a way that is consistent with the scheme’s funding and investment strategy, as set out in the scheme’s statement of strategy.”
- (3) In subsection (3)(b), after “in a prescribed manner and” insert “, subject to subsection (2A),”.
- 4 (1) Section 224 (actuarial valuations and reports) is amended as follows.
- (2) After subsection (7) insert—
- “(7A) As soon as reasonably practicable after receiving an actuarial valuation, the trustees or managers must send a copy of it to the Regulator, together with such other information as may be prescribed.”
- (3) In subsection (8), for “or (7)” substitute “, (7) or (7A)”.
- 5 In section 226 (recovery plan), after subsection (3) insert—
- “(3A) Provision may be made by regulations as to the matters to be taken into account, or the principles to be followed, in determining for the purposes of subsection (3) whether a recovery plan is appropriate having regard to the nature and circumstances of the scheme.”
- 6 In section 229 (matters requiring agreement of employer), in subsection (1), before paragraph (a) insert—
- “(za) the scheme’s funding and investment strategy, as set out in the scheme’s statement of strategy;”.
- 7 (1) Section 231 (powers of the Regulator) is amended as follows.
- (2) In subsection (1), before paragraph (za) insert—
- “(zza) that the trustees or managers have failed to comply with any of the requirements of section 221A (funding and investment strategy) or regulations under that section;”.
- (3) In subsection (2), after paragraph (a) insert—

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“(aa) it may give a direction requiring the trustees or managers to revise the scheme’s funding and investment strategy in accordance with the direction;”.

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

- 8 The Pensions Act 2004 is amended as follows.
- 9 In section 60 (registrable information), in subsection (2), after paragraph (c) insert—
- “(ca) in the case of an occupational pension scheme established under a trust, the full name and address of any chair of the trustees;”.
- 10 In section 80 (offences of providing false or misleading information), in subsection (1)(a)—
- (a) omit the “or” at the end of sub-paragraph (iv);
- (b) after that sub-paragraph insert—
- “(iva) regulations under section 221B(8)(d) (duty of trustees or managers to provide statement of strategy), or”.
- 11 In section 316 (Parliamentary control of subordinate legislation), in subsection (2), after paragraph (i) insert—
- “(ia) the first regulations under section 221A(4)(a) and (b) (funding and investment strategy: matters to be taken into account etc and level of detail);
- (ib) the first regulations under section 221B(2)(d) (Part 2 of statement of strategy: additional matters to be included);
- (ic) the first regulations under section 221B(8)(a) and (b) (Part 2 of statement of strategy: matters to be taken into account etc and level of detail);”.