
STATUTORY INSTRUMENTS

2023 No. 399

**The Occupational Pension Schemes (Administration,
Investment, Charges and Governance) and Pensions
Dashboards (Amendment) Regulations 2023**

Amendment of the Occupational Pension Schemes (Charges and Governance) Regulations 2015

2.—(1) The Occupational Pension Schemes (Charges and Governance) Regulations 2015 are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)(1)—

(i) in the definition of “charges”, after paragraph (f) insert—

“(g) specified performance-based fees;”;

(ii) after the definition of “collective flat fee charge” insert—

““collective investment scheme” has the meaning given in regulation 1(2) (citation, commencement and interpretation) of the Occupational Pension Schemes (Investment) Regulations 2005;”;

(iii) after the definition of “flat fee charge” insert—

““fund manager” has the meaning given in section 124(1) (interpretation of Part 1) of the 1995 Act;

“fund of funds” means a collective investment scheme which has a policy of investing in other collective investment schemes;”;

(iv) omit the definition of “performance fee”; and

(v) after the definition of “single charge structure” insert—

““specified performance-based fees” means fees, profit-sharing arrangements, or any part of fees or profit-sharing arrangements, which are—

(a) payable by or on behalf of the trustees or managers of a pension scheme to a fund manager in relation to investments (“the managed investments”) managed by the fund manager, either directly or as part of a collective investment scheme, for the purposes of the scheme;

(b) calculated only by reference to investment performance, whether in terms of the capital appreciation of the managed investments, the income produced by the managed investments or otherwise;

(c) only payable when—

(i) investment performance exceeds a pre-agreed rate, which may be fixed or variable; or

(1) Regulation 2(1) is amended by [S.I. 2016/304](#) and [S.I. 2021/1070](#). There are other amendments to regulation 2(1) but none is relevant to this instrument.

- (ii) the value of the managed investments exceeds a pre-agreed amount;
 - (d) calculated over a pre-agreed period of time; and
 - (e) subject to pre-agreed terms designed to mitigate the effects of short-term fluctuations in the investment performance or value of the managed investments;”;
- (b) after paragraph (1A)(2) insert—
 - “(1B) When determining whether or not fees or profit-sharing arrangements, or any part of fees or profit-sharing arrangements, are specified performance-based fees for the purposes of these regulations—
 - (a) a rate, amount, period of time or term is pre-agreed if—
 - (i) it has been agreed between the trustees or managers and the fund manager to whom the fees are payable, before the trustees or managers make the investments to which the fees relate; or
 - (ii) where the trustees or managers have invested in a fund of funds, it is set out in the investment policy of the fund of funds to which the trustees or managers agreed when they invested in the fund of funds; and
 - (b) regard must be had to any guidance issued by the Secretary of State by virtue of paragraph 1(2)(b) of Schedule 18 to the Pensions Act 2014 (power to restrict charges).”; and
 - (c) omit paragraphs (5), (5A) and (6)(3).
- (3) In regulation 7 (assessment of charges – default arrangements)(4), omit paragraphs (9), (10), (11) and (12).
- (4) In regulation 7A (assessment of charges – qualifying collective money purchase schemes)(5), omit paragraphs (9), (10), (11) and (12).
- (5) In regulation 8 (alternative assessment of charges – default arrangements)(6)—
 - (a) in paragraph (2), omit “and, if the trustees or managers so choose, the assumption in paragraph (3A)”; and
 - (b) omit paragraph (3A).
- (6) In regulation 8A (alternative assessment of charges – qualifying collective money purchase schemes)(7)—
 - (a) in paragraph (2), omit “and, if the trustees so choose, the assumption in paragraph (4)”; and
 - (b) omit paragraph (4).

(2) Regulation 2(1A) was inserted by [S.I. 2021/1070](#).
 (3) Regulation 2(5) and (6) were inserted by [S.I. 2021/1070](#). Regulation 2(5A) was inserted by [S.I. 2022/255](#).
 (4) Regulation 7 is amended by [S.I. 2021/1070](#) and [S.I. 2022/255](#).
 (5) Regulation 7A was inserted by [S.I. 2022/255](#).
 (6) Regulation 8 is amended by [S.I. 2021/1070](#) and [S.I. 2022/255](#).
 (7) Regulation 8A was inserted by [S.I. 2022/255](#).