STATUTORY INSTRUMENTS

2024 No. 462

The Occupational Pension Schemes (Funding and Investment Strategy and Amendment) Regulations 2024

PART 2

FUNDING AND INVESTMENT STRATEGY

Scheme maturity

4.—(1) For the purposes of these Regulations—

(a) the maturity of a scheme is to be measured in years using a duration of liabilities measure in accordance with paragraphs (2) to (4);

(b) a scheme reaches significant maturity on the date it reaches the duration of liabilities in years, or such other date, specified by the Regulator in a Code (and the Regulator may specify different durations of liabilities in years or different dates for different descriptions of schemes).

(2) The duration of liabilities measure to be used for the purposes of paragraph (1) is the weighted mean time until the payment of pensions and other benefits under the scheme, weighted by the discounted payments, and, in this regulation, a discounted payment is the present value, at the effective date the duration is calculated, of an expected payment of pension or other benefits, calculated using the assumptions set out in paragraphs (3) and (4).

(3) The actuarial assumptions used for the purposes of paragraph (2) must be actuarial assumptions used in a calculation of the liabilities of a scheme on a low dependency funding basis.

(4) Of the actuarial assumptions used for the purposes of paragraph (2), the economic assumptions must be chosen by reference to the economic circumstances prevailing on 31st March 2023.

(5) In determining the future maturity of a scheme, the trustees or managers of the scheme may take into consideration whether new members may be admitted to the scheme and the future accrual of benefits provided that such assumptions are reasonable and based on an assessment of the financial ability of the employer, in relation to its legal obligations to the scheme, to support the scheme, as assessed by considering the matters set out in regulation 7(4).

Low dependency investment allocation

5. Low dependency investment allocation means the assets of a scheme are invested in such a way that the value of the assets relative to the value of the scheme's liabilities is highly resilient to short-term adverse changes in market conditions so that further employer contributions are not expected to be required to make provision for the scheme's liabilities.

Low dependency funding basis

6.—(1) For the purposes of these Regulations, the liabilities of a scheme are calculated on a low dependency funding basis where they are calculated using actuarial assumptions which comply with the requirement in paragraph (2).

(2) The requirement is that further employer contributions would not be expected to be required to make provision for the scheme's liabilities under a scheme ("S"), if the presumptions in paragraph (3) were satisfied in relation to S.

(3) The presumptions are—

(a) the funding level(**1**) of S is 1:1, on a calculation of the liabilities of S which uses those actuarial assumptions, and

(b) the assets of S are invested in accordance with a low dependency investment allocation.

Strength of the employer covenant

7.—(1) For the purposes of these Regulations, the strength of the employer covenant has the meaning given in paragraph (2) and is assessed in accordance with paragraphs (3) to (6).

(2) The strength of the employer covenant means—

(a) the financial ability of the employer, in relation to its legal obligations to the scheme, to support the scheme, and

(b) the expected level of support for the scheme from any contingent assets (whether from the employer in relation to the scheme, group undertakings or other persons), to the extent the trustees or managers of the scheme could reasonably expect the contingent assets to be—

(i) legally enforceable by them, and

(ii) sufficient to provide that support at such time as the trustees or managers may be required to enforce the support to the scheme.

(3) The strength of the employer covenant is assessed in relation to an assessment of the difference between the value of the assets of the scheme and the value of its liabilities.

(4) For the purposes of paragraph (2)(a), the matters to be considered in assessing the financial ability of the employer, in relation to its legal obligations to the scheme, to support the scheme are—

(a) the cash flow, and expected future cash flow, of the employer,

(b) other matters which are likely to affect the employer's future ability to support the scheme including but not limited to the performance, future development and resilience of the employer's business, and the likelihood of an insolvency event(**2**) occurring in relation to that employer,

(c) for how long the trustees or managers of the scheme can be reasonably certain that they can rely on an assessment of the matters in sub-paragraphs (a) and (b), and

(d) for how long the trustees or managers of the scheme can be reasonably certain that the employer will be able to continue to support the scheme.

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

(a) the assessment of the difference between the value of the assets of the scheme and the value of its liabilities is to be assessed by reference to—

(i) the actuary's(**3**) estimate of the value of the liabilities calculated on a low dependency funding basis, and

(**1**) "Funding level" is defined by section 221A(3)(a) of the Act.
(**2**) "Insolvency event" is defined by section 121 of the Act.
(**3**) By virtue of section 233 of the Act, "actuary" is defined by section 47 of the Pensions Act 1995 (c. 26).

(ii) the actuary's estimate of the solvency of the scheme, as defined by regulation 7(6) of the Occupational Pension Schemes (Scheme Funding) Regulations 2005 (actuarial valuations and reports)(**4**), and

(b) in considering how much weight is to be given to each of the estimates referred to in sub-paragraph (a) for the purposes of the assessment, account is to be given to the likelihood of an event occurring which would result in an amount being treated as a debt due from the employer to the trustees or managers of the scheme under section 75 of the Pensions Act 1995 (deficiencies in the assets)(**5**).

(6) Where an assessment of the strength of the employer covenant is being carried out for the purposes of a determination, review or revision of a funding and investment strategy, or the subsequent preparation, review or revision of a statement of strategy setting out that funding and investment strategy, the actuary's estimates referred to in paragraph (5) are the estimates set out in the actuarial valuation to which the funding and investment strategy relates.

Relevant date

8.—(1) For the purposes of section 221A(3)(b) of the Act (funding and investment strategy: relevant date) the trustees or managers of the scheme must set, and from time to time review and revise, a date (the "relevant date") in accordance with this regulation.

(2) Where a scheme has not reached significant maturity, subject to paragraph (6), the relevant date must not be later than the end of the scheme year in which the date in paragraph (3) falls.

(3) The date is the date set out in the actuarial valuation to which the funding and investment strategy relates as the actuary's estimate of the date on which the scheme is expected to reach significant maturity.

(4) Where a scheme has reached significant maturity, subject to paragraph (6), the relevant date is the effective date of the actuarial valuation to which the funding and investment strategy relates.

(5) Paragraph (6) applies to a scheme which meets the following conditions—

(a) there is a section of the scheme which provides cash balance benefits within the meaning of section 75 of the Pension Schemes Act 2015(**6**),

(b) there is a section of the scheme which is a collective money purchase scheme within the meaning of section 1(2) of the Pension Schemes Act 2021(**7**), and

(c) active members of the scheme are active members of both sections.

(6) Where this paragraph applies, the trustees or managers of the scheme must, in respect of the section which provides cash balance benefits, set the relevant date.

(7) Each time the funding and investment strategy is reviewed the trustees or managers of the scheme must review the relevant date and revise it if it is necessary or appropriate to do so taking account of the provisions of this regulation.

(8) In this regulation—

(a) in paragraph (2), "scheme year" means—

(i) either—

(aa) a year specified for the purposes of the scheme rules in any document which contains those rules, or

(**4**) S.I. 2005/3377.
(**5**) 1995 c. 26. Section 75 is amended by section 271 of the Pensions Act 2004, paragraph 8 of Schedule 3 to the Pension Schemes Act 2021, S.I. 2016/1034 and S.I. 2017/540.
(**6**) 2015 c. 8.
(**7**) 2021 c. 1.

(bb) if no such year is specified, the period of 12 months commencing on 1st April or on such other date as the trustees or managers select, or

(ii) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees or managers in connection with—

(aa) the commencement or termination of the scheme, or

(bb) a variation of the date on which the year or period referred to in paragraph (i) is to commence;

(b) in paragraph (3), "the actuarial valuation to which the funding and investment strategy relates" means—

(i) where the funding and investment strategy is being determined, reviewed or revised in a case set out in regulation 13(1) or 13(2)(a) to (c), being a case where the time within which a funding and investment strategy must be determined or reviewed (and, if applicable, revised) relates to the effective date of an actuarial valuation, that actuarial valuation,

(ii) where the funding and investment strategy is being reviewed or revised in a case set out in regulation 13(2)(d), the actuarial valuation specified in the direction or, if no such actuarial valuation is specified, the most recent actuarial valuation, or

(iii) where the funding and investment strategy is being reviewed or revised in any other case, the most recent actuarial valuation.

Actuarial methods and assumptions for purposes of funding level

9.—(1) In specifying the funding level they intend the scheme to have achieved as at the relevant date, the trustees or managers of the scheme must follow the requirements in paragraph (2).

(2) The requirements are that they must—

(a) use an accrued benefits funding method, and

(b) calculate the liabilities of the scheme on a low dependency funding basis.

(3) Subject to paragraphs (1) and (2), it is for the trustees or managers of a scheme to determine which methods and assumptions are to be used in specifying the funding level they intend the scheme to have achieved as at the relevant date.

Consistency of assumptions

10. Where the trustees or managers of a scheme are required to use actuarial assumptions to determine or revise a scheme's funding and investment strategy—

(a) in any calculation of the liabilities of a scheme on a low dependency funding basis, the trustees or managers must choose the same set of assumptions, and

(b) in a calculation of the duration of liabilities measure within regulation 4, the trustees or managers must choose—

(i) in relation to the economic assumptions, the same methodology for calculating those assumptions as is used in paragraph (a), and

(ii) in relation to all other assumptions, the same set of assumptions as are used in paragraph (a).

Matters and principles

11. For the purposes of section 221A(4)(a) of the Act (funding and investment strategy: prescribed matters and principles), Schedule 1 sets out matters the trustees or managers of a scheme must take into account, and principles they must follow, in determining or revising the scheme's funding and investment strategy.

Funding and investment strategy – level of detail

12. For the purposes of section 221A(4)(b) of the Act (funding and investment strategy: level of detail) the funding and investment strategy must specify—

(a) the way in which the trustees or managers of the scheme intend pensions and other benefits under the scheme will be provided over the long term,

(b) the funding level, calculated in accordance with the requirements in regulation 9(2), of the scheme as at the effective date of the actuarial valuation to which the funding and investment strategy relates, as set out in that valuation,

(c) in the case of a scheme which has not reached the relevant date—

(i) the expected maturity of the scheme at the relevant date,

(ii) the assumptions used in specifying the funding level, calculated in accordance with the requirements in regulation 9(2) and (3), the trustees or managers intend the scheme to have achieved as at the relevant date, and

(iii) how the assumptions referred to in sub-paragraph (ii) are different to the assumptions used in calculating the scheme's technical provisions in the actuarial valuation to which the funding and investment strategy relates,

(d) in the case of a scheme which has reached the relevant date, the assumptions used in the actuary's estimate of the funding level of the scheme as at the effective date of the actuarial valuation to which the funding and investment strategy relates,

(e) the discount rate or rates and other assumptions used in calculating the scheme's technical provisions in the actuarial valuation to which the funding and investment strategy relates,

(f) how the trustees or managers of the scheme expect the discount rate or rates to change over time, and

(g) in respect of the requirement in section 221A(2)(b) of the Act to specify the investments the trustees or managers intend the scheme to hold on the relevant date, the proportion of the assets of the scheme the trustees or managers intend to allocate to different categories of investments.

Determination, review and revision of funding and investment strategy

13.—(1) The first funding and investment strategy for a scheme must be determined within the period of 15 months beginning with the effective date of the first actuarial valuation obtained by the trustees or managers, whether under section 224 of the Act (actuarial valuations and reports) or otherwise, on or after 22nd September 2024.

(2) The funding and investment strategy must be reviewed and, if applicable, revised—

(a) within the period of 15 months beginning with the effective date of each subsequent actuarial valuation under section 224(1)(a) of the Act,

(b) in the case of an actuarial valuation where the Regulator has given directions under section 231(2)(b)(i) of the Act (power of the Regulator to give directions as to the manner in which technical provisions are to be calculated)—

(i) within the period of 3 months beginning with the date of the directions if the effective date of the valuation is before the date of the directions, and

(ii) within the period of 6 months beginning with the effective date of the valuation if that date is the same as or later than the date of the directions,

(c) in the case of an actuarial valuation which does not fall within sub-paragraph (a) or (b), within the period of 15 months beginning with the effective date of the valuation,

(d) where the Regulator has given a direction under section 231(2)(aa)(**8**) of the Act (power of the Regulator to give a direction to revise the funding and investment strategy), and in a case which does not fall within sub-paragraphs (a) to (c), within the period of 3 months beginning with the date of the direction, and

(e) as soon as reasonably practicable after any material change in the circumstances of the scheme or of the employer in relation to the scheme.

(3) In paragraph (2)(e)—

(a) a material change in the circumstances of the scheme includes but is not limited to—

(i) a material change in the value of the assets of the scheme relative to the value of its liabilities, or

(ii) a material change in the maturity of the scheme, and

(b) a material change in the circumstances of the employer in relation to the scheme includes but is not limited to a material change in the strength of the employer covenant.

(**8**) Section 231(2)(aa) of the Act was inserted by paragraph 7(3) of Schedule 10 to the Pension Schemes Act 2021.