Draft Regulations laid before Parliament under section 316(2) of the Pensions Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2024 No.

PENSIONS

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

Made - - - -	*****
Coming into force - -	*6th April 2024*

The Secretary of State makes these Regulations, in exercise of the powers conferred by sections 221A(3)(b), (4) and (5), 221B(2)(d), (4), (6)(b) and (8)(b), (c) and (d), 222(4)(c), 224(6), 226(3A), (4) and (6) and 315(2), (4) and (5) of the Pensions Act 2004(**1**).

In accordance with section 317(1) of the Pensions Act 2004, the Secretary of State has consulted such persons as the Secretary of State considers appropriate.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with section 316(2)(**2**) of the Pensions Act 2004.

PART 1

PRELIMINARY

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Funding and Investment Strategy and Amendment) Regulations 2024 and come into force on 6th April 2024.

(2) These Regulations extend to England and Wales and Scotland.

Interpretation

2. In these Regulations—

"the Act" means the Pensions Act 2004;

(**1**) 2004 c. 35. Sections 221A, 221B, 222(2A), 224(7A) and 226(3A) were inserted by Schedule 10 to the Pension Schemes Act 2021 (c. 1). Section 318 defines the terms "prescribed" and "regulations".

(**2**) Section 316(2)(ia), (ib) and (ic) were inserted by paragraph 11 of Schedule 10 to the Pension Schemes Act 2021.

"the actuarial valuation to which the funding and investment strategy relates" has the meaning given by regulation 8(8)(b);

"Code" means a code of practice issued by the Regulator;

"group undertaking" has the meaning given by section 1161 of the Companies Act 2006 (meaning of "undertaking" and related expressions)(**3**);

"journey plan" in relation to a scheme means the scheme's planned progress in accordance with its funding and investment strategy as it moves towards the relevant date, starting with the effective date of the actuarial valuation to which the funding and investment strategy relates and ending with the relevant date;

"low dependency funding basis" in relation to a calculation of the liabilities of a scheme has the meaning given by regulation 6;

"low dependency investment allocation" has the meaning given by regulation 5;

"maturity" in relation to a scheme is measured in accordance with regulation 4;

"professional trustee body" means a body which—

(a) was not established by an employer in relation to the scheme,

(b) is remunerated for its services as a trustee by one or more schemes,

(c) has arranged a policy of indemnity insurance in relation to the exercise of its functions as a trustee of the scheme, and

(d) is carrying out its functions as a trustee of the scheme in the ordinary course of a profession or business which consists of, or includes, providing and holding itself out as providing services in connection with the management or administration of trusts or any particular aspect of such management or administration, whether or not such services relate to a particular kind of trust;

"relevant date" in relation to a scheme means the date determined in accordance with regulation 8 (as revised from time to time in accordance with that regulation);

"significant maturity" in relation to a scheme has the meaning given by regulation 4(1)(b);

"strength of the employer covenant" has the meaning given by regulation 7.

Review of these Regulations

3.—(1) The Secretary of State must from time to time—

(a) carry out a review of regulations 4 to 19,

(b) set out the conclusions of the review in a report, and

(c) publish the report.

(2) In carrying out the review the Secretary of State must in particular—

(a) set out the objectives intended to be achieved by the regulatory system established by the regulations referred to in paragraph (1)(a),

(b) assess the extent to which those objectives are being achieved, and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(**3**) 2006 c. 46.

(4) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

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(**4**) 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(**5**) 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(**6**) estimate of the value of the liabilities calculated on a low dependency funding basis, and

(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)(**7**), 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

(**4**) "Funding level" is defined by section 221A(3)(a) of the Act.
(**5**) "Insolvency event" is defined by section 121 of the Act.
(**6**) By virtue of section 233 of the Act, "actuary" is defined by section 47 of the Pensions Act 1995 (c. 26).
(**7**) S.I. 2005/3377.

the employer to the trustees or managers of the scheme under section 75 of the Pensions Act 1995 (deficiencies in the assets)(**8**).

(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(**9**),

(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(**10**), 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

(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;

(**8**) 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.

(**9**) 2015 c. 8.

(**10**) 2021 c. 1.

(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)(**11**) of the Act (power of the Regulator to give a direction to revise the funding and investment strategy), and in

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

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.

PART 3

STATEMENT OF STRATEGY

Supplementary matters

14. For the purposes of section 221B(2)(d) of the Act (statement of strategy), the other supplementary matters prescribed are set out in Schedule 2.

Review and revision of Part 2 of a scheme's statement of strategy

15. For the purposes of section 221B(4) of the Act (statement of strategy), the trustees or managers must review and, if necessary in the light of that review, revise Part 2 of the scheme's statement of strategy and prepare a replacement statement of strategy incorporating it as soon as reasonably practicable after any review of the scheme's funding and investment strategy, whether or not the scheme's funding and investment strategy is revised.

Requirements for chair of trustees

16. A chair of the trustees who signs a statement of strategy prepared for a trust scheme(**12**) on behalf of the trustees under section 221B(6) of the Act (statement of strategy: trust schemes) must be—

(a) an individual who is a trustee of the scheme,

(b) a professional trustee body which is a trustee of the scheme, or

(c) where a company which is not a professional trustee body is a trustee of the scheme, an individual who is a director of that company and through whom the company exercises its functions as trustee of the scheme, or a professional trustee body which is a director of that company.

Part 2 of a scheme's statement of strategy – level of detail

17.—(1) This regulation makes provision regarding the level of detail required in Part 2 of a statement of strategy.

(2) In relation to the supplementary matter in paragraph 7 of Schedule 2 (the level of risk in relation to the intended investment of the assets of the scheme relating to the actuarial valuation to

(**12**) By virtue of section 233 of the Act, "trust scheme" is defined by section 124(1) of the Pensions Act 1995.

which the funding and investment strategy relates) Part 2 must set out the proportion of the assets allocated to different categories of investments.

(3) In setting out the matters in paragraphs 6 (how maturity is expected to change over time), 7 to 9 (investment risk) and 11 to 12 (employer covenant) of Schedule 2, the trustees or managers must explain the evidence on which these are based.

(4) The Regulator may exercise a discretion as to the level of detail required in respect of each matter set out in Schedule 2, as the Regulator considers appropriate.

Form of statement of strategy

18. The statement of strategy must be submitted in a form as set out by the Regulator.

Statement of strategy to the Regulator

19.—(1) The trustees or managers of a scheme must send a statement of strategy to the Regulator at such times and on such occasions as are specified in paragraphs (2) to (4).

(2) If the funding and investment strategy is revised after the Regulator has given directions under section 231(2)(b)(i) of the Act (power of the Regulator to give directions in relation to the calculation of technical provisions), the trustees or managers must send the statement of strategy as soon as reasonably practicable—

(a) after the period of three months beginning with the date of directions if the effective date of the valuation is before the date of the directions, or

(b) after the period of six months beginning with the effective date of the valuation if that is on or after the date of the directions.

(3) Where the Regulator directs the trustees or managers of a scheme to revise the scheme's funding and investment strategy under section 231(2)(aa) of the Act, the trustees or managers must send the statement of strategy as soon as reasonably practicable after the period of three months beginning with the date of the direction.

(4) In all other cases, after the trustees or managers of a scheme have prepared or revised the funding and investment strategy, they must send the statement of strategy to which the funding and investment strategy relates as soon as is reasonably practicable.

PART 4

AMENDMENTS TO REGULATIONS

Amendments to the Occupational Pension Schemes (Scheme Funding) Regulations 2005

20.—(1) The Occupational Pension Schemes (Scheme Funding) Regulations 2005(**13**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation), in the appropriate places, insert—

"“the Funding and Investment Strategy Regulations” means the Occupational Pension Schemes (Funding and Investment Strategy and Amendment) Regulations 2024;";

"“relevant date” has the meaning given by regulation 2 of the Funding and Investment Strategy Regulations;".

(3) In regulation 7 (actuarial valuations and reports)—

(**13**) S.I. 2005/3377.

(a) in paragraph (4)—

(i) at the end of sub-paragraph (a) omit "and";

(ii) at the end of sub-paragraph (b) omit "." and insert—

", and

(c) the actuary's estimate of—

(i) the maturity of the scheme as at the effective date of the valuation,

(ii) the maturity of the scheme as at the relevant date, where the relevant date is different from the effective date of the valuation,

(iii) the date on which the scheme is expected to (or, if applicable, did) reach significant maturity, and

(iv) the funding level(**14**) of the scheme as at the effective date of the valuation, calculated in accordance with the requirements in regulation 9(2) of the Funding and Investment Strategy Regulations (actuarial methods and assumptions for purposes of funding level) and expressed as a ratio.",

(b) after paragraph (4) insert—

"(4A) Where, for the purposes of the actuary's estimates in paragraph (4)(c), the actuary is required to use actuarial assumptions, the actuary must use the assumptions chosen by the trustees or managers of the scheme, in accordance with the Funding and Investment Strategy Regulations, for the purposes of the determination or revision of the funding and investment strategy for which the actuarial valuation is the actuarial valuation to which the funding and investment strategy relates.",

(c) in paragraph (6), for "paragraph (4)" substitute "paragraph (4)(b)", and

(d) after paragraph (7) insert—

"(8) For the purposes of paragraph (4)(c)(i) to (iii), the estimates are to be determined in accordance with the principles in regulation 4(1) to (4) of the Funding and Investment Strategy Regulations (scheme maturity).

(9) In paragraph (4A), "the actuarial valuation to which the funding and investment strategy relates" has the meaning given by regulation 2 of the Funding and Investment Strategy Regulations (interpretation).".

(4) In regulation 8 (recovery plan)—

(a) after paragraph (1) insert—

"(1A) For the purposes of section 226(3A) of the 2004 Act(**15**) (principles to be followed in determining whether a recovery plan is appropriate), in determining whether a recovery plan is appropriate having regard to the nature and circumstances of the scheme, the trustees or managers must follow the principle that the period specified for the purposes of section 226(2)(b) of the 2004 Act (recovery plan: period within which steps to be taken to meet the statutory funding objective is to be achieved) must be as soon as the employer can reasonably afford.",

(b) in paragraph (2)—

(i) in sub-paragraph (d) omit ", and" and insert ";", and

(ii) at the end of sub-paragraph (e) insert—

", and

(**14**) "Funding level" is defined by section 221A(3)(a) of the Act.
(**15**) Section 226(3A) of the Act was inserted by paragraph 5 of Schedule 10 to the Pension Schemes Act 2021.

(f) the impact of the recovery plan on the sustainable growth of the employer”, and

(c) omit paragraph (7)(a).

(5) In paragraphs 1(1), (4) and (6), 4(4), 5(3), 7 and 10 of Schedule 2 (modifications of the Act and Regulations), after “Part 3 of the 2004 Act” each time it occurs insert “, the Funding and Investment Strategy Regulations”.

Signed by authority of the Secretary of State for Work and Pensions

Name
Parliamentary Under Secretary of State
Department for Work and Pensions

Date

SCHEDULE 1

Regulation 11

Funding and investment strategy – matters and principles

Matters

1. In determining or revising a scheme's funding and investment strategy, the trustees or managers of the scheme must take into account—

(a) the actuary's estimate of the date on which the scheme is expected to (or, if applicable, did) reach significant maturity, as set out in the actuarial valuation to which the funding and investment strategy relates,

(b) the actuary's estimate of the maturity 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 actuarial valuation, and

(c) the objective that on and after the relevant date the assets to which the minimum funding level relates, as provided for in paragraph 3, are invested in accordance with a low dependency investment allocation.

Principles

2. The trustees or managers of a scheme must, in determining or revising the scheme's funding and investment strategy, follow the principles set out in paragraphs 3 to 5 of this Schedule.

Minimum requirement on and after the relevant date

3. On and after the relevant date a minimum requirement that a scheme is subject to is that the scheme has sufficient and appropriate assets such that the funding level of the scheme calculated in accordance with the requirements in regulation 9(2) and (3) is as a minimum 1:1 ("the minimum funding level").

Risk in relation to calculation of liabilities on journey plan

4.—(1) The principles set out in sub-paragraph (2) relate to the level of risk that can be taken by the trustees or managers of a scheme in determining the actuarial assumptions used for the purposes of calculating the liabilities of the scheme as it moves along its journey plan.

(2) The principles are that the level of risk that can be taken—

(a) is dependent on the strength of the employer covenant (so that more risk can be taken where the employer covenant is stronger and less risk can be taken where the employer covenant is weaker);

(b) subject to paragraph (a), depends on how near the scheme is to reaching the relevant date (so that, subject to the strength of the employer covenant, more risk can be taken where a scheme is a long way from reaching the relevant date and less risk can be taken where a scheme is near to reaching the relevant date).

Liquidity

5. The assets of the scheme must be invested in investments with sufficient liquidity to enable the scheme to meet expected cash flow requirements and make reasonable allowance for unexpected cash flow requirements.

SCHEDULE 2

Regulation 14

Statement of strategy – supplementary matters

1. For the purposes of section 221B(2)(d) of the Act, the other supplementary matters are set out in paragraphs 2 to 15.

Actuarial valuation and recovery plan

2. A summary of the information contained in the actuarial valuation to which the funding and investment strategy relates.

3. If a recovery plan has been prepared or revised in relation to the actuarial valuation to which the funding and investment strategy relates, a summary of the information contained in that plan.

Maturity

4. The actuary's estimate of the maturity 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.

5. Where, in accordance with regulation 4(5), the trustees or managers of the scheme have taken into consideration whether new members may be admitted to the scheme and the future accrual of benefits—

(a) a calculation of the duration of liabilities and future accrual based on the assumptions used, and

(b) the number of years of future accrual that have been allowed for when estimating the date of significant maturity.

6. For a scheme which has not reached the relevant date, how the maturity of the scheme is expected to change over time.

Investment risk

7. The level of risk in relation to the intended investment of the assets of the scheme relating to the actuarial valuation to which the funding and investment strategy relates.

8. For a scheme which has not reached the relevant date—

(a) the level of risk the trustees or managers of the scheme intend to take in relation to the investment of the assets of the scheme as it moves along its journey plan, and

(b) how the trustees or managers intend to achieve compliance with the matter in paragraph 1(c) of Schedule 1 by the relevant date.

9. For a scheme which has reached the relevant date, how the level of risk, in relation to the intended investment of the assets of the scheme relating to the actuarial valuation to which the funding and investment strategy relates, complies with the matter in paragraph 1(c) of Schedule 1.

Liquidity

10. How the investment of the assets of the scheme complies with the principle in paragraph 5 of Schedule 1.

Employer covenant

11. An assessment of the strength of the employer covenant.

12. How long it is reasonable to rely on this assessment.

General

13. The extent to which the funding and investment strategy is or remains appropriate.

14. Confirmation that the trustees or managers have consulted the employer in relation to the scheme in the preparation or revision of Part 2 of the statement of strategy.

15. Any comments that the employer in relation to the scheme has asked to be included in Part 2 of the statement of strategy.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the funding of occupational pension schemes to which Part 3 of the Pensions Act 2004 (c. 35) (scheme funding) applies. They implement the amendments to that Part made by Schedule 10 to the Pension Schemes Act 2021 (c. 1) (funding of defined benefit schemes).

Part 1 of these Regulations contains preliminary matters. In particular, it sets out (in regulation 2) where some of the key concepts used in the Regulations are defined and (in regulation 3) makes provision for review of regulations 4 to 19, pursuant to the requirement in section 28(2)(a) of the Small Business, Enterprise and Employment Act 2015 (c. 26) (duty to review regulatory provisions in secondary legislation).

Part 2 of these Regulations makes provision relating to the new requirement, in section 221A of the Pensions Act 2004 ("the 2004 Act") (funding and investment strategy), for schemes to have a funding and investment strategy.

Regulations 4 to 7 define the key concepts underlying how schemes must give effect to this requirement. In particular, regulation 4 sets out how the maturity of a scheme is to be measured and the meaning of "significant maturity" in relation to a scheme; regulation 5 sets out the meaning of "low dependency investment allocation" in relation to the assets of a scheme; regulation 6 sets out the meaning of "low dependency funding basis" in relation to the calculation of the liabilities of a scheme; and regulation 7 sets out the meaning of "strength of the employer covenant" and how it is assessed.

Regulation 8 sets out how the "relevant date" is to be determined.

Regulation 9 sets out the actuarial methods and assumptions to be used for the purposes of specifying the funding level the trustees and managers intend the scheme to have achieved as at the relevant date. In particular, the liabilities of the scheme for this purpose must be calculated on a low dependency funding basis.

Regulation 10 ensures that when, in determining or revising a scheme's funding and investment strategy, the trustees or managers of a scheme are required to use actuarial assumptions in the calculation of the liabilities of a scheme on a low dependency funding basis and the duration of liabilities measure, the trustees or managers must choose either the same set of assumptions or, in relation to the economic assumptions in a calculation of the duration of liabilities measure, the same methodology as is used for calculating the other assumptions.

Regulation 11 introduces Schedule 1 which sets out matters the trustees or managers must take into account, and principles they must follow, in determining or revising the scheme's funding and investment strategy. The matters in Schedule 1 relate to estimates in relation to scheme maturity by the actuary appointed by the trustees or managers, and investment risk on and after the relevant date. The principles in Schedule 1 make provision regarding the minimum requirements that a scheme is subject to on and after the relevant date; the level of risk that can be taken in relation to the calculation of the liabilities of the scheme as it moves towards that date; and the liquidity of the assets of the scheme.

Regulation 12 makes provision regarding the level of detail required in a funding and investment strategy.

Regulation 13 sets out the period within which a funding and investment strategy must be determined and subsequently reviewed and revised.

Part 3 of these Regulations makes provision regarding the statement of strategy. The statement of strategy is prepared by the trustees or managers of a scheme under section 221B of the 2004 Act (statement of strategy). It consists of two parts: Part 1 is a written statement of the funding and investment strategy, and Part 2 is a written statement of supplementary matters.

Regulation 14 introduces Schedule 2 which sets out supplementary matters to be included in Part 2 of the statement of strategy, in addition to those required by section 221B of the 2004 Act.

Regulation 15 sets out the period within which Part 2 of a statement of strategy must be reviewed and revised.

Regulation 16 sets out requirements to be met by the person who is the chair of the trustees who is required by section 221B(6) of the 2004 Act to sign the statement of strategy.

Regulation 17 makes provision regarding the level of detail required in Part 2 of a statement of strategy.

Regulation 18 makes provision regarding the form of the statement of strategy. Regulation 19 makes provision for when the trustees or managers shall send the statement of strategy to the Regulator.

Part 4 of these Regulations amends the Occupational Pension Schemes (Scheme Funding) Regulations 2005 (S.I. 2005/3377). The amendments made by regulation 20(2), (3) and (5) are to take account of the new requirements relating to funding and investment strategies. In particular, they make provision for additional matters to be included in an actuarial valuation. The amendments made by regulation 20(4) make provision for determining whether a recovery plan is appropriate having regard to the nature and circumstances of the scheme.

An impact assessment has been carried out as part of the enactment of the measures in the Pension Schemes Act 2021 and has been published alongside the Pension Schemes Act 2021 at www.legislation.gov.uk. Paper copies can be obtained from the Department for Work and Pensions, First Floor, Caxton House, Tothill Street, London SW1H 9NA.