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SCHEDULES

SCHEDULE 11

Section 129

FURTHER PROVISION RELATING TO PENSION SCHEMES: NORTHERN IRELAND

PART 1

FUNDING OF DEFINED BENEFIT SCHEMES

Amendments of Part 4 of the Pensions (Northern Ireland) Order 2005

- 1 Part 4 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) (scheme funding) is amended as follows.

Commencement Information

- II** Sch. 11 para. 1 in force at Royal Assent for specified purposes, see s. 131(3)(c)

- 2 Before Article 201 insert—

“Funding and investment strategy

- 200A(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 paragraph (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;

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- (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 paragraph (4)(a) includes provision requiring the trustees or managers, in specifying a funding level for the purposes of paragraph (2)(a), to adopt prescribed actuarial methods or assumptions.
- (6) Where any requirement of this Article is not complied with, Article 10 of the 1995 Order (civil penalties) applies to a trustee or manager who has failed to take all reasonable steps to secure compliance.

Statement of strategy

- 200B) 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 paragraph (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 paragraph (1) is referred to as a “statement of strategy”;
 - (b) the text included in a statement of strategy by virtue of paragraph (1) (a) is referred to as “Part 1” of the statement;
 - (c) the text included in a statement of strategy by virtue of paragraph (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.

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- (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 paragraph (6) cannot be complied with because the trustees of a trust scheme do not have a chair, they must appoint one.
- (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 Article is not complied with, Article 10 of the 1995 Order (civil penalties) applies to a trustee or manager who has failed to take all reasonable steps to secure compliance.”

Commencement Information

I2 [Sch. 11 para. 2](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(c\)](#)

- 3 (1) Article 201 (the statutory funding objective) is amended as follows.
- (2) After paragraph (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 paragraph (3)(b), after “in a prescribed manner and” insert “, subject to paragraph (2A),”.

Commencement Information

I3 [Sch. 11 para. 3](#) in force at Royal Assent for specified purposes, see [s. 131\(3\)\(c\)](#)

- 4 (1) Article 203 (actuarial valuations and reports) is amended as follows.
- (2) After paragraph (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 paragraph (8), for “or (7)” substitute “, (7) or (7A)”.

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Commencement Information

I4 Sch. 11 para. 4 in force at Royal Assent for specified purposes, see s. 131(3)(c)

5 In Article 205 (recovery plan), after paragraph (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 paragraph (3) whether a recovery plan is appropriate having regard to the nature and circumstances of the scheme.”

Commencement Information

I5 Sch. 11 para. 5 in force at Royal Assent for specified purposes, see s. 131(3)(c)

6 In Article 208 (matters requiring agreement of employer), in paragraph (1), before sub-paragraph (a) insert—

“(za) the scheme's funding and investment strategy, as set out in the scheme's statement of strategy;”.

Commencement Information

I6 Sch. 11 para. 6 in force at Royal Assent for specified purposes, see s. 131(3)(c)

7 (1) Article 210 (powers of the Regulator) is amended as follows.

(2) In paragraph (1), before sub-paragraph (za) insert—

“(zza) that the trustees or managers have failed to comply with any of the requirements of Article 200A (funding and investment strategy) or regulations under that Article;”.

(3) In paragraph (2), after sub-paragraph (a) insert—

“(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;”.

Commencement Information

I7 Sch. 11 para. 7 in force at Royal Assent for specified purposes, see s. 131(3)(c)

Minor and consequential amendments

8 The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) is amended as follows.

Commencement Information

I8 Sch. 11 para. 8 in force at Royal Assent for specified purposes, see s. 131(3)(c)

9 In Article 55 (registrable information), in paragraph (2), after sub-paragraph (c) insert—

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“(ca) in the case of an occupational pension scheme established under a trust, the full name and address of any chair of the trustees;”.

Commencement Information

I9 Sch. 11 para. 9 in force at Royal Assent for specified purposes, see s. 131(3)(c)

10 In Article 75 (offences of providing false or misleading information), in paragraph (1)(a)—

- (a) omit the “or” at the end of head (iv);
- (b) after that head insert—

“(iva) regulations under Article 200B(8)(d) (duty of trustees or managers to provide statement of strategy), or”.

Commencement Information

I10 Sch. 11 para. 10 in force at Royal Assent for specified purposes, see s. 131(3)(c)

11 In Article 288 (Assembly etc control of orders and regulations), in paragraph (3), after sub-paragraph (h) insert—

- “(ha) the first regulations under Article 200A(4)(a) and (b) (funding and investment strategy: matters to be taken into account etc and level of detail);
- (hb) the first regulations under Article 200B(2)(d) (Part 2 of statement of strategy: additional matters to be included);
- (hc) the first regulations under Article 200B(8)(a) and (b) (Part 2 of statement of strategy: matters to be taken into account etc and level of detail);”.

Commencement Information

I11 Sch. 11 para. 11 in force at Royal Assent for specified purposes, see s. 131(3)(c)

PART 2

OTHER PROVISION

Climate change risk

12 (1) The Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) is amended as follows.

(2) After Article 41 insert—

“Climate change risk

41A(1) Regulations may impose requirements on the trustees or managers of an occupational pension scheme of a prescribed description with a view to

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securing that there is effective governance of the scheme with respect to the effects of climate change.

- (2) The effects of climate change in relation to which provision may be made under paragraph (1) include, in particular—
 - (a) risks arising from steps taken because of climate change (whether by governments or otherwise), and
 - (b) opportunities relating to climate change.
- (3) The requirements which may be imposed by the regulations include, in particular, requirements about—
 - (a) reviewing the exposure of the scheme to risks of a prescribed description;
 - (b) assessing the assets of the scheme in a prescribed manner;
 - (c) determining, reviewing and (if necessary) revising a strategy for managing the scheme's exposure to risks of a prescribed description;
 - (d) determining, reviewing and (if necessary) revising targets relating to the scheme's exposure to risks of a prescribed description;
 - (e) measuring performance against such targets;
 - (f) preparing documents containing information of a prescribed description.
- (4) Regulations under paragraph (3)(b) may, in particular, require—
 - (a) that assets are assessed by reference to their exposure to risks of a prescribed description, and
 - (b) that an assessment includes determining the contribution of the assets of the scheme to climate change.
- (5) The regulations may require the trustees or managers of the scheme to take into account—
 - (a) different ways in which the climate might change, and
 - (b) different steps that might be taken because of climate change.
- (6) Regulations under paragraph (5) may require the trustees or managers of the scheme to adopt prescribed assumptions as to future events, including assumptions about—
 - (a) the steps that might be taken for the purpose of achieving the Paris Agreement goal or other climate change goal, or
 - (b) the achievement of the Paris Agreement goal or other climate change goal.
- (7) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Department.
- (8) In this Article “the Paris Agreement goal” means the goal of holding the increase in the average global temperature to well below 2°C above pre-industrial levels referred to in Article 2(1)(a) of the agreement done at Paris on 12 December 2015.

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Climate change risk: publication of information

- 41B (1) Regulations may require the trustees or managers of an occupational pension scheme of a prescribed description to publish information of a prescribed description relating to the effects of climate change on the scheme (which may include information about matters to which regulations under Article 41A may relate).
- (2) Regulations under paragraph (1) may, among other things—
- (a) require the trustees or managers to publish a document of a prescribed description;
 - (b) require information or a document to be made available free of charge;
 - (c) require information or a document to be provided in a form that is or by means that are prescribed or of a prescribed description.
- (3) In complying with requirements imposed by the regulations, a trustee or manager must have regard to guidance prepared from time to time by the Department.

Articles 41A and 41B: compliance

- 41C (1) Regulations may make provision with a view to ensuring compliance with a provision of regulations under Article 41A or 41B.
- (2) The regulations may in particular—
- (a) provide for the Authority to issue a notice (a “compliance notice”) to a person with a view to ensuring the person’s compliance with a provision of regulations under Article 41A or 41B;
 - (b) provide for the Authority to issue a notice (a “third party compliance notice”) to a person with a view to ensuring another person’s compliance with a provision of regulations under Article 41A or 41B;
 - (c) provide for the Authority to issue a notice (a “penalty notice”) imposing a penalty on a person where the Authority are of the opinion that the person—
 - (i) has failed to comply with a compliance notice or third party compliance notice, or
 - (ii) has contravened a provision of regulations under Article 41A or 41B;
 - (d) provide for the making of a reference to the First-tier Tribunal or Upper Tribunal in respect of the issue of a penalty notice or the amount of a penalty;
 - (e) confer other functions on the Authority.
- (3) The regulations may make provision for determining the amount, or the maximum amount, of a penalty in respect of a failure or contravention.
- (4) But the amount of a penalty imposed under the regulations in respect of a failure or contravention must not exceed—
- (a) £5,000, in the case of an individual, and

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(b) £50,000, in any other case.

(5) In this Article “First-tier Tribunal” and “Upper Tribunal” mean those tribunals established under section 3 of the Tribunals, Courts and Enforcement Act 2007.”

(3) In Article 113 (breach of regulations), in paragraph (3)(b), after “10” insert “ or under provision contained in regulations made by virtue of Article 41C ”.

(4) In Article 167 (Assembly, etc. control of orders and regulations), after paragraph (3) insert—

“(3A) Paragraph (2) also applies in relation to the first regulations made by virtue of Article 41A or 41C (whether made alone or with other regulations).”

Commencement Information

I12 Sch. 11 para. 12 in force at 1.9.2021 by S.R. 2021/240, art. 2(2)(e)

Transfer rights: exercise of right to cash equivalent

13 (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.

(2) In section 91 (ways of taking right to cash equivalent), after subsection (6) insert—

“(6ZA) The trustees or managers of the scheme may not use the cash equivalent in a way specified in subsection (2)(a), (b) or (d), (2A)(a), (b) or (d) or (3) unless prescribed conditions are satisfied.

(6ZB) The conditions that may be prescribed by regulations under subsection (6ZA) include (but are not limited to) conditions about—

- (a) the member's employment or place of residence;
- (b) providing the trustees or managers with information or evidence about the member's employment or place of residence;
- (c) the member obtaining information or guidance about exercising the option conferred by subsection (1) from a prescribed person in a prescribed case;
- (d) providing the trustees or managers with evidence that—
 - (i) the member has complied with a prescribed condition about obtaining such information or guidance from a prescribed person, or
 - (ii) the member is not subject to such a prescribed condition.

(6ZC) Regulations may make provision requiring the trustees or managers of a pension scheme to notify a member who makes an application under subsection (1) of conditions prescribed under subsection (6ZA).”

(3) In section 94 (loss of right to cash equivalent), in subsection (2), for “95(2A)” substitute “ 95(2ZA) or (2A) ”.

(4) In section 95 (trustees' duties after exercise of option), after subsection (2) insert—

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“(2ZA) Subsection (2) does not apply if the trustees or managers have been unable to carry out what the member requires because a condition prescribed by regulations under section 91(6ZA) has not been satisfied.”

(5) In section 95, after subsection (2ZA) (inserted by sub-paragraph (4)) insert—

“(2ZB) Subsection (2) does not apply if—

- (a) the member was required by section 92(4) to give a transfer notice under section 97F(1) in addition to making an application, and
- (b) the trustees or managers have been unable to carry out what the member required in the transfer notice under section 97F(1) because a condition prescribed by regulations under section 97F(5A) has not been satisfied.”

(6) In section 97F (power to give transfer notice), after subsection (5) insert—

“(5A) The trustees or managers of the scheme may not use the amount equal to the cash equivalent for an authorised purpose under subsection (2)(a) or (c) or (3) unless prescribed conditions are satisfied.

(5B) The conditions that may be prescribed by regulations under subsection (5A) include (but are not limited to) conditions about—

- (a) the member's employment or place of residence;
- (b) providing the trustees or managers with information or evidence about the member's employment or place of residence;
- (c) the member obtaining information or guidance about exercising the right under subsection (1) from a prescribed person in a prescribed case;
- (d) providing the trustees or managers with evidence that—
 - (i) the member has complied with a prescribed condition about obtaining such information or guidance from a prescribed person, or
 - (ii) the member is not subject to such a prescribed condition.

(5C) Regulations may make provision requiring the trustees or managers of a qualifying scheme to notify an eligible member who gives a transfer notice of conditions prescribed under subsection (5A).”

(7) In section 97J (time for compliance with transfer notice), after subsection (2A) insert—

“(2AA) Subsection (1) does not apply if the trustees or managers have been unable to carry out what the member requires because a condition prescribed by regulations under section 97F(5A) has not been satisfied.”

(8) In section 97J, after subsection (2AA) (inserted by sub-paragraph (7)) insert—

“(2AB) Subsection (1) does not apply if—

- (a) the member was required by section 97G(4) to make an application under section 91(1) in addition to giving a transfer notice, and
- (b) the trustees or managers have been unable to carry out what the member required in the application under section 91(1) because a condition prescribed by regulations under section 91(6ZA) has not been satisfied.”

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- I13** Sch. 11 para. 13(1) in force at 1.9.2021 for specified purposes by S.R. 2021/240, art. 2(1)(b)
I14 Sch. 11 para. 13(2)(6) in force at 1.9.2021 for specified purposes by S.R. 2021/240, art. 2(1)(g)

The Pension Protection Fund: modification of provisions relating to pensionable service

- 14 (1) The amendments of the Pension Protection Fund (Compensation) Regulations (Northern Ireland) 2005 (S.R. (N.I.) 2005 No. 149) made by regulation 2(2) and (3) of the Pension Protection Fund (Pensionable Service) and Occupational Pension Schemes (Investment and Disclosure) (Amendment and Modification) Regulations (Northern Ireland) 2018 (S.R. (N.I.) 2018 No. 165) (“the 2018 Regulations”) are to be deemed always to have had effect.
- (2) The amendment of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations (Northern Ireland) 2005 (S.R. (N.I.) 2005 No. 91) made by regulation 3 of the 2018 Regulations is to be deemed always to have had effect.

Commencement Information

- I15** Sch. 11 para. 14 in force at 1.9.2021 by S.R. 2021/240, art. 2(2)(f)

Administration charges

- 15 (1) In Article 3 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) (meaning of “stakeholder pension scheme”), in paragraph (5) (fourth condition: charge cap)—
- (a) for “result in” substitute “constitute”;
 - (b) after “members” insert “or the making of transfer payments with a view to acquiring rights or entitlements to pension benefits under different pension schemes”.
- (2) In Schedule 18 to the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.)) (power to restrict charges or impose requirements in relation to schemes), in paragraph 1(5), in the definition of “administration charge”—
- (a) for “result in” substitute “constitute”;
 - (b) after “members” insert “or the making of transfer payments with a view to acquiring rights or entitlements to pension benefits under different pension schemes”.
- (3) In section 109 of the Pension Schemes (Northern Ireland) Act 1993 (disclosure of information about schemes to members etc)—
- (a) in subsection (6)(b), after “the” insert “other”;
 - (b) in subsection (7), after “or” insert “other”.

Commencement Information

- I16** Sch. 11 para. 15(2) in force at 29.9.2021 for specified purposes by S.R. 2021/271, art. 2(2) (with art. 10)

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VALID FROM 01/08/2022

*Categories of pension schemes: repeal of provisions
of Pension Schemes Act (Northern Ireland) 2016*

- 16 In the Pension Schemes Act (Northern Ireland) 2016 (c. 1 (N.I.)), omit—
- (a) sections 1 to 7 (Part 1: categories of pension scheme);
 - (b) sections 8 to 35 (Part 2: pension schemes providing collective benefits);
 - (c) sections 36, 37, 38(2), (3) and (5) to (7) and 39 to 45 (general changes to legislation about pension schemes);
 - (d) Schedule 1 (early leavers: revaluation of accrued benefits);
 - (e) in Schedule 2 (other amendments to do with Parts 1 and 2)—
 - (i) paragraphs 1 to 19;
 - (ii) paragraph 21;
 - (iii) paragraphs 23 to 27;
 - (iv) paragraphs 29 and 30;
 - (v) paragraph 32;
 - (vi) paragraphs 34 to 47.

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