

STATUTORY INSTRUMENTS

2000 No. 1403

The Stakeholder Pension Schemes Regulations 2000

PART II

CONDITIONS APPLYING TO STAKEHOLDER PENSION SCHEMES

Manner of establishment

2.—(1) A stakeholder pension scheme may (where not established under a trust) be established by means of one or more instruments in writing which provide for one or more contracts to be entered into between the manager of the scheme and each member of the scheme, or a person acting on his behalf.

[^{F1}(2) The manager of the scheme must be a person who is mentioned in section 154(1)(b) of the Finance Act 2004 (persons by whom registered pension scheme may be established).]

^{F1}(3)

Textual Amendments

F1 Reg. 2(2) substituted for reg. 2(2)(3) (6.4.2013) by [The Occupational and Stakeholder Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/459\)](#), regs. 1, **8(3)**

Requirements applying to all stakeholder pension schemes as regards instruments establishing such schemes

3.—(1) Subject to paragraph (2), [^{F2}the scheme instruments] must prohibit [^{F3}the acceptance of credits within the meaning of section 29 (pension sharing: creation of pension debits and credits), contributions and transfer payments] to the scheme before 6th April 2001.

(2) Paragraph (1) shall not apply to a scheme in respect of which an application for registration under section 2 (registration of stakeholder pension schemes) is first made on or after 6th April 2001.

(3) The scheme instruments must require that no member is required to make any choice as regards the investment under the scheme of any payment made to it by him or on his behalf, any amount credited to the member's account in respect of a credit within the meaning of section 29 (pension sharing: creation of pension debits and credits), or any income or capital gain arising from the investment of such a payment or credit.

(4) The scheme instruments must, except to the extent permitted under regulations 13^{F4}, 14 or 14B], prohibit the use of—

- (a) any payment made to the scheme by or on behalf of a member;
- (b) any amount credited to a member's account in respect of a credit within the meaning of section 29 (pension sharing: creation of pension debits and credits);
- (c) any income or capital gain arising from the investment of such a payment or credit; or

- (d) the value of his rights under the scheme,
in any way which does not result in the provision of benefits for or in respect of the member.
- (5) The scheme instruments must require that—
- (a) if the scheme ceases to be registered under section 2 the winding-up of the scheme be commenced on the date on which it is notified in writing by the ^{F5}... Authority that it is no longer so registered;
 - (b) if the trustees or manager fix a time for winding-up a scheme for any reason other than because the scheme ceases to be registered under section 2, the winding-up of the scheme be commenced at the earliest time fixed by the trustees or manager as the time from which steps for the purposes of winding-up are to be taken;
 - (c) within 2 weeks of the date of commencement of any winding-up, the trustees or manager notify in writing any employers whom they know to have designated the scheme for the purposes of section 3 (duty of employers to facilitate access to stakeholder pension schemes) of the fact of, and the reason for, the winding-up including, where the scheme has ceased to be registered under section 2, the reason for the cessation of registration;
 - (d) any contributions made to a scheme after the date of commencement of any winding-up must be repaid—
 - (i) to the member, to the extent of his contributions; and
 - (ii) as to any remainder, to his employer;
 - (e) subject to paragraphs (8) and (9) below, on any winding-up all rights under the scheme shall be discharged by the trustees or managers of the scheme within 12 months of the commencement of winding-up, or as soon thereafter as is practicable, by the making of transfer payments—
 - (i) to other stakeholder pension schemes, or schemes registered under Article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 ^{M1}; or
 - (ii) in accordance with requests by one or more members or beneficiaries in respect of their rights, to the trustees or managers of pension schemes or pension arrangements which are not schemes mentioned in head (i) above,
 in accordance with paragraphs (6) and (7) below and regulation 6 or, where regulation 7 applies, with regulation 7; and
 - (f) if the scheme fails to complete winding-up within 12 months of commencing winding-up proceedings, the trustees or manager notify the ^{F6}... Authority of that fact within one month of so failing to complete the winding-up.
- [^{F7}(5A) [^{F8}Subject to paragraph (10) and to regulation 17(1) and (5),] except to the extent necessary to ensure that the scheme [^{F9}maintains its tax-registration], the scheme instruments must preclude membership of the scheme being restricted by reference to—
- (a) financial status;
 - (b) the amount of contributions to be made to the scheme;
 - (c) the manner in which contributions may be made to the scheme.]
- [^{F10}(5B) The scheme instruments must, except to the extent necessary to ensure that the scheme [^{F9}maintains its tax-registration], permit as means of payment of contributions to the scheme payment from a bank account or building society account by—
- (a) cheque;
 - (b) direct debit;
 - (c) standing order;

(d) direct credit (other than standing order),
and (for the avoidance of doubt) for the purposes of this paragraph, those means of payment do not include payment by cash, credit card or debit card (or by any combination thereof).]

(6) A transfer payment referred to in paragraph (5)(e) must be of an amount not less than the cash equivalent of the member's rights under the scheme, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act (calculation of cash equivalents)^{M2} on the date on which the payment is made.

^{F11}(7)

(8) Paragraph (5)(e) does not apply to rights to which effect is given under the scheme by the payment of an annuity (not being a deferred annuity) or a lump sum either to the member or, on or after his death, to another person.

(9) For the purposes of paragraph (8), a deferred annuity is an annuity under the terms of which payment does not commence immediately but at a time in the future.

[^{F12}(10) Paragraph (5A) shall not preclude membership being restricted by reference to—

- (a) employment with a particular employer or in a particular trade or profession; or
- (b) membership of a particular organisation.

(11) ^{F13}.....]

Textual Amendments

- F2** Words in reg. 3(1) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **2(2)**
- F3** Words in reg. 3(1) substituted (14.2.2001) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2001 \(S.I. 2001/104\)](#), regs. 1(1), **3(2)**
- F4** Words in reg. 3(4) substituted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **7(2)**
- F5** Words in reg. 3(5)(a) omitted (6.4.2009) by virtue of [The Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#), regs. 1(2), **16(2)**
- F6** Words in reg. 3(5)(f) omitted (6.4.2009) by virtue of [The Occupational, Personal and Stakeholder Pensions \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/615\)](#), regs. 1(2), **16(2)**
- F7** Reg. 3(5A) inserted (14.2.2001) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2001 \(S.I. 2001/104\)](#), regs. 1(1), **3(4)**
- F8** Words in reg. 3(5A) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **3(3)**
- F9** Words in reg. 3(5A)(5B) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments of Occupational and Personal Pension Schemes Legislation\) Order 2006 \(S.I. 2006/744\)](#), arts. 1, **20(3)**
- F10** Reg. 3(5B) inserted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **3(4)**
- F11** Reg. 3(7) omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) Order 2011 \(S.I. 2011/1246\)](#), arts. 1(2)(a), **20(2)**
- F12** Reg. 3(10)(11) inserted (14.2.2001) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2001 \(S.I. 2001/104\)](#), regs. 1(1), **3(4)**
- F13** Reg. 3(11) omitted (5.4.2001) by virtue of [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **3(5)**

Marginal Citations

- M1** [S.I. 1999/3147 \(N.I. 11\)](#).

M2 Section 97 was amended by paragraph 4(a) to (c) of Schedule 6 to the Pensions Act 1995.

Additional requirements as regards instruments establishing a stakeholder pension scheme established under a trust

- 4.—(1) ^{F14}
- (2) ^{F15}
- (3) [^{F16}[^{F17}The scheme instruments of a] scheme established under a trust (“the trust instruments”)] must require that—
- (a) unless sub-paragraph (b) applies, at least one trustee and at least one-third of the total number of trustees is neither connected with nor an associate of any person providing services to or otherwise managing the scheme (other than as a trustee);
 - (b) where a company is trustee of the scheme and there is no trustee of the scheme who is not a company, at least one of the directors of the company and at least one-third of the total number of its directors is neither connected with nor an associate of any person providing services to or otherwise managing the scheme (other than as a trustee).
- (4) The trust instruments must not—
- (a) enable any of the provisions required by regulation 3 [^{F18}, by this regulation or by regulation 6] to be modified or disappplied;
 - (b) have a condition that the trustees must obtain the consent of any person before making any decision about investments for the purposes of the scheme; or
 - (c) except in so far as otherwise required by or under any enactment, preclude the trustees from amending the trust instruments to provide for different investments to be held for the purposes of the scheme.

Textual Amendments

- F14** Reg. 4(1) omitted (14.2.2001) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2001 \(S.I. 2001/104\)](#), regs. 1(1), **4(2)**
- F15** Reg. 4(2) omitted (14.2.2001) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2001 \(S.I. 2001/104\)](#), regs. 1(1), **4(2)**
- F16** Words in reg. 4(3) substituted (14.2.2001) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2001 \(S.I. 2001/104\)](#), regs. 1(1), **4(3)**
- F17** Words in reg. 4(3) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **4(2)**
- F18** Words in reg. 4(4)(a) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **4(3)**

Additional requirements as regards instruments establishing a stakeholder pension scheme not established under a trust

5. ^{F19}

Textual Amendments

- F19** Reg. 5 omitted (14.2.2001) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2001 \(S.I. 2001/104\)](#), regs. 1(1), **5**

Procedure for discharging rights on winding-up

6.—(1) The scheme instruments must require that, where the winding-up of a stakeholder pension scheme has commenced, the trustees or manager must, except in cases where regulation 7 applies, make transfer payments in respect of members' rights in accordance with the procedure set out in paragraphs (2) to (9) of this regulation.

(2) The trustees or manager shall no later than 4 months after the commencement of winding-up give notice to each member stating—

- (a) that they propose to make a transfer payment in respect of his rights under the scheme to their choice of a stakeholder pension scheme or a scheme registered under Article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999, that scheme to be named in the notice, unless the member applies for the transfer payment to be made to a pension scheme or pension arrangement of his choice;
- (b) the value of the member's rights at the date that the scheme commenced winding-up, being an amount not less than the cash equivalent of those rights on that date, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act (calculation of cash equivalents); and
- (c) that, unless the member applies within 4 months of the date of the notice for a transfer payment to be made to a pension scheme or pension arrangement of his choice, a transfer payment may be made without his consent to the scheme named in the notice as the scheme of the trustees' or manager's choice.

(3) If any member makes an application for a transfer payment to be made to a pension scheme or pension arrangement of his choice (whether or not the application is made under section 95 of the 1993 Act (ways of taking right to cash equivalent)^{M3}) the trustees or manager shall, unless paragraph (4) of this regulation applies, do what is needed to carry out what the member requires within one month of receiving the member's application.

(4) This paragraph applies where—

- (a) it is not possible for the trustees or manager to do what is needed to carry out what the member requires within 12 months of the date of commencement of winding-up;
- (b) it would contravene the terms of the scheme's [^{F20}tax-registration], or any provision of the scheme required to be included as a condition of any such [^{F21}registration], for the trustees or manager to do what is needed to carry out what the member requires; or
- (c) the member withdraws his application before the trustees have or the manager has done what is needed to carry out what he requires.

(5) Where paragraph (4)^{F22}... applies in relation to the first such application made by the member as is mentioned in paragraph (3), the trustees or manager shall as soon as practicable give notice to the member stating—

- (a) [^{F23}where sub-paragraph (a) or (b) of paragraph (4) applies,] that they cannot carry out what he requires and the reasons why not;
- (b) that if he does not make a further application such as is mentioned in paragraph (3) they propose to make a transfer payment in respect of his rights as set out in the notice given in accordance with paragraph (2); and
- (c) that, unless he makes such further application within one month of the date of the notice given in accordance with this paragraph, such a transfer payment may be made without his consent.

(6) In any case where—

(a) the trustees do not or the manager does not receive any such application as is mentioned in paragraph (3) within 4 months of the date of the notice given in accordance with paragraph (2);

^{F24}(b)

(c) paragraph (4)^{F25}... applied in respect of the first such application made by the member and—

(i) the trustees or manager, having given notice to the member [^{F26}in accordance with] paragraph (5), do not receive any such further application as is mentioned in that paragraph within one month of the date of the notice; or

(ii) the trustees or manager, having given such notice, have received a further application such as is mentioned in paragraph (5) within one month of that date but paragraph (4) applies in respect of that further application,

the trustees or manager may make a transfer payment in respect of the member’s rights to the pension scheme named in the notice mentioned in paragraph (2) as the scheme of their choice.

(7) The trustees or manager shall, within one month of making a transfer payment under paragraph (3) or (6), give notice to the member stating the amount of the payment, the name and address of the scheme to which it has been made and the date on which it was made.

^{F27}(8)

(9) For the purposes of this regulation “member” includes “beneficiary”.

Textual Amendments

- F20** Word in reg. 6(4)(b) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments of Occupational and Personal Pension Schemes Legislation\) Order 2006 \(S.I. 2006/744\)](#), arts. 1, **20(4)(a)**
- F21** Word in reg. 6(4)(b) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments of Occupational and Personal Pension Schemes Legislation\) Order 2006 \(S.I. 2006/744\)](#), arts. 1, **20(4)(b)**
- F22** Words in reg. 6(5) omitted (6.4.2005) by virtue of [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **3(2)(a)**
- F23** Words in reg. 6(5)(a) inserted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **3(2)(b)**
- F24** Reg. 6(6)(b) omitted (6.4.2005) by virtue of [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **3(3)(a)**
- F25** Words in reg. 6(6)(c) omitted (6.4.2005) by virtue of [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **3(3)(b)(i)**
- F26** Words in reg. 6(6)(c) substituted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **3(3)(b)(ii)**
- F27** Reg. 6(8) omitted (1.12.2010) by virtue of [The Occupational, Personal and Stakeholder Pension Schemes \(Disclosure of Information\) \(Amendment\) Regulations 2010 \(S.I. 2010/2659\)](#), regs. 1(2), **4(3)**

Marginal Citations

- M3** Section 95 was amended by paragraph 3 of Schedule 6 to the Pensions Act 1995.

Procedure for discharging on winding-up rights of members with whom the trustees or manager have lost contact

7.—^{F28}(1) This regulation applies in respect of any member—

- (a) whose present postal address and electronic address is not known to the trustees or manager;
- (b) in respect of whom the trustees or manager have sent correspondence to their last known—
 - (i) postal address and that correspondence has been returned, or
 - (ii) electronic address and the trustees or manager are satisfied that that correspondence has not been delivered; and
- (c) in respect of whom no contribution has been made to the scheme by or on behalf of the member during the two calendar years preceding the commencement of winding-up of the scheme.]

(2) In cases where this regulation applies, the trustees or manager shall on the winding-up of the scheme make a transfer payment in respect of the member's rights to their choice of a stakeholder pension scheme, or to a scheme registered under Article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and need give no notice of the transfer payment to the member either before or after it is made.

Textual Amendments

F28 Reg. 7(1) substituted (1.12.2010) by [The Occupational, Personal and Stakeholder Pension Schemes \(Disclosure of Information\) \(Amendment\) Regulations 2010 \(S.I. 2010/2659\)](#), regs. 1(2), 4(4)

Requirement applying to all stakeholder pension schemes as regards investments

8.—(1) For the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) Except where monies are held temporarily on deposit in the course of dealing in assets for the purposes of the scheme, the trustees or manager must ensure that there is derived, from any part of the funds of the scheme that are held on deposit, a return accruing on a daily basis that is, net of any fees or charges, not less than the base rate minus 2 per cent. per annum.

(3) Where the base rate is increased, paragraph (2) shall apply as if the reference to the base rate in that paragraph were—

- (a) within one calendar month of the date of the increase, a reference to the base rate immediately before the increase; and
- (b) after that calendar month has elapsed, a reference to the base rate as increased.

(4) The trustees or manager shall not [^{F29}directly hold, for the purposes of the scheme,] units or shares in a collective investment scheme (within the meaning of [^{F30}section 235 of the Financial Services and Markets Act 2000] (interpretation: definition of 'collective investment scheme')) unless it is a requirement of the collective investment scheme that the purchase and sale price of those units or shares shall, at any given time, not differ from each other.

(5) The trustees or manager shall not [^{F29}directly hold, for the purposes of the scheme,] rights under a contract of insurance which are expressed as units or shares in funds held by the [^{F31}insurer] unless it is a requirement of the contract of insurance that the purchase and sale price of those units or shares shall, at any given time, not differ from each other.

(6) In this regulation—

“base rate” means the rate for the time being quoted by the reference banks as applicable to sterling deposits or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence;

[^{F32c}“contract of insurance” means a contract—

- (a) which, or any part of which, is of one or more of the following kinds—
 - (i) life and annuity,
 - (ii) linked long term,
 - (iii) pension fund management, and
 - (iv) which is carried out by an insurer who has permission, as the case may be, under—
 - (v) Part 4 of the Financial Services and Markets Act 2000, or
 - (ii) paragraph 15 of Schedule 3 to that Act,

to effect or carry out contracts of insurance of that kind;]

^{F33}
...

[^{F34c}“reference banks” means the seven largest persons for the time being who—

- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and
- (c) quote a base rate applicable to sterling deposits,

and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985) ^{M4}, as shown in the audited end of year accounts last published before that time.]

[^{F35}(7) References to a “deposit” in this regulation, together with the definitions of “contract of insurance” and “reference banks” in paragraph (6) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]

Textual Amendments

- F29** Words in reg. 8(4)(5) substituted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **4(2)**
- F30** Words in reg. 8(4) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **596(1)**
- F31** Word in reg. 8(5) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **595(3)**
- F32** Words in reg. 8(6) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **596(2)(a)**
- F33** Words in reg. 8(6) revoked (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **596(2)(b)**
- F34** Words in reg. 8(6) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **596(2)(c)**
- F35** Reg. 8(7) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **596(3)**

Marginal Citations

- M4** 1985 c. 6. Section 736 was substituted by section 144(1) of the [Companies Act 1989](#) (c. 40).

Requirement for statement of investment principles for schemes not established under trust

9.—(1) Subject to paragraph (2), for the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) This regulation does not apply to a scheme established under a trust.

(3) The manager of the scheme must secure that there is prepared, maintained and from time to time revised a written statement of the principles governing decisions about investments for the purposes of the scheme.

(4) The statement must cover the manager's policy about the following matters—

- (a) the kinds of investments to be held;
- (b) the balance between different kinds of investments;
- (c) risk;
- (d) the expected return on investments;
- (e) the realisation of investments;
- (f) the extent (if at all) to which social, environmental or ethical considerations are taken into account in the selection, retention and realisation of investments; and
- (g) the exercise of the rights (including voting rights) attaching to investments.

(5) Subject to paragraph (6), where a copy of the latest statement mentioned in paragraph (3) is requested by a member, the statement shall, within 2 months of the request, be furnished to that member either—

- (a) free of charge; or
- (b) where a charge is made, at an amount that does not exceed the expense incurred in copying, posting and packing the statement.

(6) A copy of the statement mentioned in paragraph (3) need not be furnished to the same person within 12 months of the person last being given such a copy unless the statement has changed during that 12 month period.

(7) In this regulation "member" includes "beneficiary".

Requirement for manager of schemes not established under a trust to have regard to certain matters, and to take advice, relating to investment

10.—(1) Subject to paragraph (2), for the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) This regulation does not apply to a scheme established under a trust.

(3) The manager of the scheme, and any person managing funds held for the purposes of the scheme, must, in investing such funds or in selecting investment options offered to members of the scheme, have regard to—

- (a) the need for diversification of investments, in so far as appropriate to the circumstances of the scheme; and
- (b) the suitability for the purposes of the scheme of any investment or investment option proposed.

(4) The manager of the scheme, and any person managing funds held for the purposes of the scheme, must, before making any investment or selecting any investment option for the purposes of the scheme, obtain and consider proper advice as to whether the investment [F36 or investment option]

is satisfactory having regard to the matters mentioned in paragraph (3) and the principles contained in the statement under regulation 9.

[^{F37}(4A) The manager of the scheme, and any person managing funds held for the purposes of the scheme, must, if retaining any investment or investment option for the purposes of the scheme—

- (a) determine at what intervals the circumstances, and in particular the nature of the investment or investment option, make it desirable to obtain and consider in relation to that investment or investment option such advice as is mentioned in paragraph (4); and
- (b) obtain and consider such advice accordingly.]

(5) [^{F38}For the purposes of this regulation]“proper advice” means—

- [^{F39}(a) where the giving of advice constitutes a regulated activity of advising on investments (or would constitute such a regulated activity but for the identity of the person carrying on that activity), advice given by a person who may give that advice without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000;]
- (b) in any other case, the advice of a person whom the manager or person managing funds held for the purposes of the scheme reasonably believes to be qualified by his ability in and practical experience of financial matters and to have the appropriate knowledge and experience of the management of the investments of pension schemes.

[^{F40}(5A) Paragraph (5)(a) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]

(6) [^{F41}Paragraphs (4) and (4A)(b) do not apply] to the extent that the manager or the person managing the scheme’s funds is a person who may [^{F42}himself] give proper advice.

(7) To the extent that paragraph (4) [^{F43}or (4A)(b)] is disapplied by virtue of paragraph (6), the manager or person managing the scheme’s funds, being [^{F44}a person who may himself give proper advice—

- (a) must—
 - (i) before making any investment or selecting any investment option for the purposes of the scheme, consider; and
 - (ii) if so retaining any investment or investment option, consider at such intervals as are determined by him in relation to that investment or investment option under paragraph (4A)(a),

whether the investment or investment option is satisfactory having regard to the matters mentioned in paragraph (3) and the principles contained in the statement under regulation 9; and

- (b) must record in writing the reasons why he considers that any—
 - (i) investment he makes or retains; or
 - (ii) investment option he selects or retains,
 is satisfactory having regard to those matters and principles.]

[^{F45}(8) No person shall be regarded as having complied with—

- (a) paragraph (4) unless the advice to be obtained and considered by him under that paragraph is given or (by the giver of the advice) confirmed in writing;
- (b) paragraph (4A)(a) unless the determination to be made by him under that paragraph is recorded by him in writing;

- (c) paragraph (4A)(b) unless the advice to be obtained and considered by him under that paragraph is given or (by the giver of the advice) confirmed in writing.]

Textual Amendments

- F36** Words in reg. 10(4) inserted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **6(2)**
- F37** Reg. 10(4A) inserted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **6(3)**
- F38** Words in reg. 10(5) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **6(4)**
- F39** Reg. 10(5)(a) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **597(1)**
- F40** Reg. 10(5A) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **597(2)**
- F41** Words in reg. 10(6) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **6(5)(a)**
- F42** Word in reg. 10(6) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **6(5)(b)**
- F43** Words in reg. 10(7) inserted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **6(6)(a)**
- F44** Words in reg. 10(7) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **6(6)(b)**
- F45** Reg. 10(8) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **6(7)**

[^{F46} Requirement as regards the investment strategy for members nearing retirement

10A.—(1) Subject to regulation 10B, for the purposes of section 1(1)(b) it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) Except in so far as paragraph (3) and regulation 10C provide otherwise, the trustees or manager of a scheme shall make the rights of a member under the scheme subject to lifestyling if the member has made no choice as regards any investment made under the scheme on his behalf.

(3) Paragraph (2) does not apply in relation to the rights of a person who became a member of the scheme before 6th April 2005 unless he requests that his rights should be made subject to lifestyling, in response to the notification provided for in regulation 10D(3).

(4) Where the amount representing the value of a member's rights is divided into different tranches, in respect of which different retirement dates are specified, paragraph (2) applies separately in relation to the member's rights regarding each tranche.

(5) In these Regulations, "lifestyling" means the process, applied from the relevant date and continuing until the member's retirement date, by which an investment strategy is adopted by the trustees or manager which aims progressively to reduce the potential for significant variation in the value of the member's rights caused by market conditions from time to time.

(6) In paragraph (5), "the relevant date" means a date chosen by the trustees or manager, which is at least five years before the member's retirement date, or which is—

- (a) in the case of a member who joins the scheme less than five years before his retirement date, as soon as is reasonably practicable after he becomes a member, and

- (b) in the case of a member whose retirement date is varied so as to become a date less than five years before the date of the variation, as soon as is reasonably practicable after the date of the variation.

Textual Amendments

F46 Reg. 10A –10E inserted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), 5

Exclusion of regulation 10A in relation to a scheme

10B.—(1) If, before 6th April 2005, the trustees or manager of a scheme resolved that no new member should be admitted to the scheme on or after that date—

- (a) regulation 10A shall not apply to the scheme, and
 (b) it shall be a condition of the scheme being a stakeholder pension scheme that no new member is admitted.

(2) Sub-paragraphs (a) and (b) of paragraph (1) shall cease to apply to a scheme if a resolution of the kind specified in that paragraph is revoked by a further resolution of the trustees or manager of the scheme on or after 6th April 2005.

Textual Amendments

F46 Reg. 10A –10E inserted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), 5

Transitional provisions relating to regulation 10A

10C. If, before 6th April 2005, the Occupational Pensions Regulatory Authority received a letter from the trustees or manager of a scheme stating the intention—

- (a) to establish, by 6th April 2006, arrangements to make the rights of any person who—
 (i) becomes a member of the scheme on or after 6th April 2005 and before 6th April 2006, and
 (ii) has made no choice as regards any investment made under the scheme on his behalf, subject to lifestyling, and
 (b) to establish, by 6th October 2007, arrangements to make the rights of any person who—
 (i) became a member of the scheme before 6th April 2005, and
 (ii) has requested that his rights should be made subject to lifestyling, in response to the notification provided for in regulation 10D(3),

subject to lifestyling, regulation 10A(2) does not apply in relation to the rights of a person of the kind described in sub-paragraph (a) until 6th April 2006, or in relation to the rights of a person of the kind described in sub-paragraph (b) until 6th October 2007.

Textual Amendments

F46 Reg. 10A –10E inserted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), 5

Notification requirements connected with regulations 10A and 10B

10D.—(1) For the purposes of section 1(1)(b) it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) The trustees or manager of the scheme shall notify the Pensions Regulator of any resolution of the kind specified in regulation 10B(1) by 4th July 2005, and of any resolution of the kind specified in regulation 10B(2) within three months after the date of the resolution.

(3) If regulation 10A applies to the scheme, the trustees or manager shall notify every member of the scheme—

- (a) who became a member before 6th April 2005;
- (b) who has made no choice as regards any investment made under the scheme on his behalf, and
- (c) whose rights are not already subject to lifestyling,

in accordance with paragraph (4).

(4) The notification provided for in paragraph (3) must—

- (a) inform the member—
 - (i) of the purpose of lifestyling, and the manner in which it is provided for under the scheme;
 - (ii) of the potential advantages and disadvantages to the member of applying lifestyling to his rights, and
 - (iii) that his rights will be made subject to lifestyling if he so requests, and
- (b) be given before 6th April 2007, or, in a case where regulation 10A applies to the scheme by virtue of a resolution under regulation 10B(2), within two years of the date of that resolution.

(5) If, by virtue of a resolution of the kind specified in regulation 10B(1), regulation 10A does not apply to the scheme, the trustees or manager shall notify every member of the scheme who has made no choice as regards any investment made under the scheme on his behalf in accordance with paragraph (6).

(6) The notification provided for in paragraph (5) must—

- (a) inform the member—
 - (i) of the purpose of lifestyling, and the fact that it is not provided for under the scheme, and
 - (ii) that, if he so requests, his rights under the scheme can be transferred to another stakeholder pension scheme of his choice under which lifestyling is provided for, and
- (b) be given before 6th April 2007.

(7) At least four months, but no more than two years, before applying lifestyling to the rights of a member whose rights are subject to lifestyling (or, where this is not reasonably practicable, as soon before applying lifestyling as is reasonably practicable), the trustees or manager shall notify the member of the fact that his rights are subject to lifestyling and of the date from which lifestyling will be applied.

Textual Amendments

F46 Reg. 10A –10E inserted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), 5

Changes notified by members

10E. Where—

- (a) the rights of a member of a scheme have been made subject to lifestyling;
- (b) the application of lifestyling to those rights has not begun, and
- (c) the member either—
 - (i) makes a choice as regards any investment made under the scheme on his behalf, or
 - (ii) notifies the trustees or manager of the scheme that he does not wish his rights to be subject to lifestyling,

the rights of the member shall cease to be subject to lifestyling.

(2) Where—

- (a) the application of lifestyling to the rights of a member of a scheme has begun, and
- (b) the member notifies the trustees or manager of the scheme that he wishes to specify a different retirement date,

the trustees or manager may opt to continue the application of lifestyling as if the member's retirement date were unchanged.]

Textual Amendments

F46 Reg. 10A –10E inserted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), 5

Requirement for manager of schemes not established under trust to appoint a reporting accountant

11.—(1) [^{F47}For] the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) ^{F48}

[^{F49}(3) There shall be appointed as reporting accountant for the scheme (“the reporting accountant”), by the trustees or manager of the scheme, a person who is eligible under paragraph (4) for such appointment.]

[^{F50}(4) A person is eligible for appointment as the reporting accountant only if he is eligible (but subject to paragraph (10)) under section 25 of the Companies Act 1989 for appointment as a company auditor.]

(5) The reporting accountant shall be appointed in writing and the notice of appointment shall specify—

- (a) the date on which the appointment is due to take effect;
- (b) to whom the reporting accountant is to report; and
- (c) from whom the reporting accountant is to take instructions.

(6) The [^{F51}trustees or manager] shall procure from the reporting accountant [^{F52}by the end of one month beginning with the date he received] his notice of appointment a statement—

- (a) acknowledging in writing his receipt of his notice of appointment; and
- (b) confirming in writing that he will notify the [^{F51}trustees or manager] of any conflict of interest to which he is subject in relation to the scheme immediately he becomes aware of its existence.

(7) It shall be a condition of the appointment of the reporting accountant that he agrees, in the event of his resignation^{F53} ..., to serve on the [^{F51}trustees or manager] a written notice of resignation containing—

(a) a statement specifying any circumstances connected with the resignation which in his opinion significantly affect the interests of the members or prospective members of, or of beneficiaries under, the scheme, or

[^{F54}(b) a declaration that he knows of no such circumstances,]

[^{F55}(7A) Where the reporting accountant is or becomes ineligible, by virtue of [^{F56}not or no longer being a person defined in paragraph (11) who satisfies the condition] in paragraph (4), for his appointment as such—

(a) he shall not act as the reporting accountant (except if required to do so under paragraph (6), and except as required by his agreement under paragraph (7) and as required by sub-paragraphs (c) and (d));

(b) anything done for the purposes of these Regulations by him acting as such while ineligible in contravention of sub-paragraph (a) shall by the trustees or manager be taken for those purposes not to have been done;

[^{F57}(c) he shall resign (with immediate effect) by notice in writing immediately he becomes aware that he is ineligible;]

(d) he shall state in that notice—

(i) that he is resigning by reason of ineligibility; and

(ii) the ground on which he is or has become so ineligible;

(e) ^{F58}... if he is still in place when the trustees or manager ^{F59}... become aware^{F60} ... that he is or has become so ineligible, the trustees or manager shall remove him immediately.]

[^{F61}(8) Except in cases falling within paragraph (9), where the reporting accountant is removed by the trustees or manager or resigns or dies, the trustees or manager shall appoint, in accordance with this regulation, another reporting accountant—

(a) as soon as is required in order to ensure that the provisions of regulation 12(2)(b) and (8) are complied with; and

(b) in any event, by the end of 3 months beginning with the date of that removal, resignation or death.]

[^{F61}[^{F62}(9) Where under paragraph (7A) the reporting accountant resigns with immediate effect or is removed, the trustees or manager shall appoint, in accordance with this regulation, another reporting accountant—

(a) as soon as is required in order to ensure that the provisions of regulation 12(2)(b) and (8) are complied with; and

(b) in any event, by the end of one month beginning with the date of that resignation or removal.]

(10) For the purposes of [^{F63}paragraph (4)], a person is not eligible under section 25 of the 1989 Act for appointment as a company auditor if section 34 of that Act applies to him (individuals retaining only authorisation under section 13(1) of the Companies Act 1967).

(11) In this regulation references to a person are references to an individual, a body corporate or a partnership.]

Textual Amendments

- F47** Word in reg. 11(1) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **7(2)**
- F48** Reg. 11(2) omitted (5.4.2001) by virtue of [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **7(3)**
- F49** Reg. 11(3) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **7(4)**
- F50** Reg. 11(4) substituted (9.9.2002) by [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **3(2)**
- F51** Words in reg. 11(6)-(8) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **7(6)**
- F52** Words in reg. 11(6) substituted (9.9.2002) by [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **3(3)**
- F53** Words in reg. 11(7) omitted (9.9.2002) by virtue of [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **3(4)**
- F54** Reg. 11(7)(b) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **7(7)(b)**
- F55** Reg. 11(7A) inserted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **7(8)**
- F56** Words in reg. 11(7A) substituted (9.9.2002) by [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **3(5)(a)**
- F57** Reg. 11(7A)(c) substituted (9.9.2002) by [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **3(5)(b)**
- F58** Words in reg. 11(7A)(e) omitted (9.9.2002) by virtue of [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **3(5)(c)(i)**
- F59** Words in reg. 11(7A)(e) omitted (9.9.2002) by virtue of [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **3(5)(c)(ii)**
- F60** Words in reg. 11(7A)(e) omitted (9.9.2002) by virtue of [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **3(5)(c)(iii)**
- F61** Reg. 11(8)(9) substituted (9.9.2002) by [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **3(6)**
- F62** Reg. 11(9)-(11) inserted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **7(10)**
- F63** Words in reg. 11(10) substituted (9.9.2002) by [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **3(10)**

[^{F64}Requirement for declaration by trustees or manager]

[^{F64}12.—(1) For the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) Subject to paragraph (11), the trustees or manager of the scheme shall, no later than the end of 6 months beginning with each reporting date—

- (a) make a declaration in writing signed by the trustees or manager containing the statements set out in paragraph (5) in relation to the reporting period or, in so far as they are unable to make those statements, containing a statement explaining why they are unable to do so; and
- (b) obtain from the reporting accountant appointed by virtue of regulation 11 the statement specified in paragraph (7) or, in so far as the reporting accountant is unable to make that statement, a statement from the reporting accountant explaining why he is unable to do so.

- (3) Subject to paragraph (10), in this regulation “reporting date” means—
- (a) in the case of the first reporting date, a date chosen by the trustees or manager that is no later than the last day of the period of 12 months beginning with the date on which the scheme is registered under section 2 of the Act; and
 - (b) in the case of each subsequent reporting date, a date chosen by the trustees or manager that is no later than the last day of the period of 12 months beginning with the date immediately following the previous reporting date.
- (4) Subject to paragraph (10), in this regulation “reporting period” means—
- (a) in the case of the first reporting period, the period beginning on the date of registration of the scheme under section 2 of the Act and ending on and including the first reporting date;
 - (b) in the case of subsequent reporting periods, the period beginning on the date immediately following the previous reporting date and ending on and including the reporting date.
- (5) The statements specified in paragraph (2)(a) shall be—
- (a) a statement that in the opinion of the trustees or manager there are systems and controls in place which provide reasonable assurance that—
 - (i) regulations 13^{F65}, 14 and 14B] have been complied with in relation to the scheme;
 - (ii) transactions for the purposes of the scheme in securities, property or other assets have occurred at a fair market value;
 - (iii) the value of members' rights has been determined in accordance with the provisions in the instruments establishing the scheme; and
 - (iv) adequate records have been maintained for the purposes of providing to members the statement required by regulation ^{F66}18A(1)];
 - (b) a statement describing the process that the trustees or manager have or has undertaken in order to arrive at the opinion expressed in the statement described in paragraph (5)(a);
 - (c) a statement that in the opinion of the trustees or manager there are systems and controls in place which provide reasonable assurance that the scheme has complied with the conditions in section 1(1) of the Act, apart from those conditions that are covered by the statement in paragraph (5)(a); and
 - (d) a statement which explains that—
 - (i) regulations 13^{F67}, 14 and 14B] impose limits on the amount of charges and deductions which may be made by a stakeholder pension scheme and on the manner in which charges may be made by such a scheme; and
 - (ii) regulation ^{F66}18A(1)] requires a stakeholder pension scheme to provide an annual benefit statement to each member.
- (6) The trustees or manager shall provide the reporting accountant with documentation to demonstrate that the process described in the statement in paragraph (5)(b) has taken place.
- (7) The statement specified in paragraph (2)(b) shall be a statement that—
- (a) the reporting accountant has been provided with documentation as required by paragraph (6); and
 - (b) nothing has come to the attention of the reporting accountant that is inconsistent with the statement made in paragraph (5)(b).
- (8) The trustees or manager shall make available to members and beneficiaries of the scheme on request the declaration made by the trustees or manager and the statement obtained from the reporting accountant in accordance with paragraph (2).

(9) If the statement to be obtained by the trustees or manager under paragraph (2)(b) is obtained from the reporting accountant acting as such while ineligible in contravention of regulation 11(7A) (a)—

- (a) the trustees or manager shall not be regarded as having complied with paragraph (2)(b); and
- (b) for the purposes of paragraph (8), the statement from the reporting accountant shall not be regarded as obtained in accordance with paragraph (2)(b).

(10) Where a scheme is registered under section 2 of the Act on or before 6th April 2001—

- (a) the first reporting date shall be 5th April 2002; and
- (b) the first reporting period shall be the period beginning on and including 6th April 2001 and ending on and including 5th April 2002.

(11) Where the reporting date is on or before 30th September 2002 the trustees or manager of the scheme shall make the declaration specified in paragraph (2)(a) and obtain the statement specified in paragraph (2)(b) from the reporting accountant—

- (a) on or before 31st December 2002; or
- (b) by the end of 6 months beginning with the reporting date,

whichever is later.]

Textual Amendments

- F64** Reg. 12 substituted (9.9.2002) by [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **4**
- F65** Words in reg. 12(5)(a)(i) substituted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **7(3)(a)**
- F66** Word in reg. 12(5)(a)(iv)(d)(ii) substituted (1.12.2010) by [The Occupational, Personal and Stakeholder Pension Schemes \(Disclosure of Information\) \(Amendment\) Regulations 2010 \(S.I. 2010/2659\)](#), regs. 1(2), **4(5)**
- F67** Words in reg. 12(5)(d)(i) substituted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **7(3)(a)**

Expenses, commission etc.—principles

13.—(1) Except to the extent permitted by regulation 14 [^{F68}or 14B]—

- (a) no payment made to a stakeholder pension scheme by or on behalf of any member;
- (b) no income or capital gain arising from the investment of such a payment;
- (c) no amount credited to a member's account in respect of a credit within the meaning of section 29 (pension sharing: creation of pension debits and credits); and
- (d) no amount representing the value of any rights of a member under the scheme,

shall be used in any way which does not result in the provision of benefits for or in respect of members.

(2) Paragraph (1) does not apply—

- (a) to the extent that section 31 (pension sharing: pension debits), or any enactment in force in Northern Ireland corresponding to that section, applies to reduce the benefits or future benefits to which a member may be entitled under the scheme; or
- (b) to prevent the trustees or manager of a scheme from complying with [^{F69}an order of the court]

[^{F70}(2A) Nothing in paragraph (1) shall be taken to prevent that which is permitted by or under any of the provisions mentioned in paragraph (4).]

(3) In this regulation and in [^{F71}regulations 14 and 14B] below “member” includes “beneficiary”.

[^{F72}(4) The provisions referred to in paragraph (2A) are—

- ^{F73}(a)
- (b) section 159 of the 1993 Act (inalienability of guaranteed minimum pension and protected rights payments);
- (c) sections 91 to 94 of the 1995 Act and regulations under those sections (inalienability and forfeiture of occupational pensions); and
- (d) in the case of a pension scheme established under a trust which—
 - (i) is not an occupational pension scheme; but
 - (ii) is or has been registered under section 2;

sections 91, 92 and 94 of the 1995 Act and the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997 (inalienability and forfeiture of occupational pensions) as those sections and Regulations have effect by virtue of section 6(3) of, and Schedule 1 to, the Act and of regulation 32.]

[^{F74}(5) This regulation and regulations 14 to 14C do not apply in the circumstances set out in regulation 14D.]

Textual Amendments

- F68** Words in reg. 13(1) inserted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **6(2)**
- F69** Words in reg. 13(2)(b) substituted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **6(3)**
- F70** Reg. 13(2A) inserted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **9(2)**
- F71** Words in reg. 13(3) substituted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **6(4)**
- F72** Reg. 13(4) inserted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **9(3)**
- F73** Reg. 13(4)(a) omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) Order 2011 \(S.I. 2011/1246\)](#), arts. 1(2)(a), **20(3)**
- F74** Reg. 13(5) inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **12(2)**

Charges etc.—permitted reductions in members’ rights

[^{F75}**14.**—(1) The value of a member’s rights under the scheme may be reduced in the circumstances, and to the extent, set out in [^{F76}paragraphs (2) to (5A)] of this regulation.

(2) To the extent that a member’s rights are represented by a fund allocated to him to the exclusion of other members, the value of those rights may be reduced by the making of deductions from that fund which, when added to the amount of any indirect charges attributable to the member’s rights, are no greater than, at the choice of the trustees or manager—

- (a) the relevant percentage of its value for each day on which it is held for the purposes of the scheme, or

- (b) the proportion attributable to that fund of the relevant percentage of the value of all members' funds held for the purposes of the scheme for each day on which the fund is so held.

(3) To the extent that a member's rights are represented by a share of funds held for the purposes of the scheme, the amount of that share not being determined by reference to a discretion exercisable by any person, the value of those rights may be reduced by the making of deductions from that share which, when added to the amount of any indirect charges attributable to the member's share, are no greater than, at the choice of the trustees or manager—

- (a) the relevant percentage of its value for each day on which it is held for the purposes of the scheme, or
- (b) the proportion attributable to the member's share of the relevant percentage of the value of the funds for each day on which the share is held.

(4) To the extent that a member's rights are represented by rights in a with-profits fund, the value of those rights may be reduced by the making of deductions from the with-profits fund which, when added to the amount of any indirect charges attributable to the member's rights, are no greater than, at the choice of the trustees or manager—

- (a) the relevant percentage of the value of the member's rights in the fund for each day on which it is held for the purposes of the scheme, or
- (b) the proportion attributable to the member's rights of the relevant percentage of the value of such part of the fund as is allocated to the rights of members for each day on which the member has rights in the fund.

(5) The value of a member's rights under the scheme may be reduced—

- (a) where administrative expenses are incurred by the trustees or manager in—
 - (i) the purchase or provision of an annuity for the member in accordance with the scheme, or
 - (ii) the making of payments of income (otherwise than by way of an annuity) to a member under arrangements made in accordance with the scheme,

by the amount of those expenses;

- (b) by such amount, and in such manner, as is permitted by regulations under section 24 or 41 (charges in respect of pension sharing costs);
- (c) where an order of the court provides for the recovery by the trustees or manager of costs incurred in complying with the order, by the amount of those costs;
- (d) where any charges are incurred by the trustees or manager, directly or indirectly, in connection with the sale or purchase of investments held for the purposes of the scheme, by the amount of such of those charges as—
 - (i) are attributable to the member's rights, and
 - (ii) are not the subject of an election by the trustees or manager under regulation 14B(1)(b);
- (e) where any charges or expenses are incurred by the trustees or manager directly or indirectly in maintaining or repairing any land or buildings in which the fund is invested, or in connection with the collection of rent, service charge or other sums due under the terms of a lease from occupiers of any such land or buildings, by the amount of such of those charges or expenses as—
 - (i) are attributable to the member's rights, and
 - (ii) are not the subject of an election by the trustees or manager under regulation 14B(1)(b);

- (f) by the amount of any dilution levy charged, or, in the case of rights represented by rights in a with-profits fund, by the amount of any market value adjustment occurring in relation to the fund; [^{F77}and]
- (g) where the member is the transferor for the purposes of section 29 (pension sharing: creation of pension debits and credits), by the amount of any payment made to discharge the liability of the trustees or manager in respect of a credit within the meaning of that section, ^{F78} ...

^{F79}(h)

[^{F80}(5A) The value of a member’s rights under the scheme may be reduced by the amount of any payment made to discharge the liability of the trustees or managers in respect of any tax liability under the Finance Act 2004 in relation to that member.]

(6) In paragraphs (2) to (4), “indirect charges” means management charges deducted from a fund in which a fund held for the purposes of the scheme is invested, directly or indirectly.

(7) For the purposes of paragraphs (2) to (4), “the relevant percentage” means—

- (a) in the case of an established member, 1/365 per cent.;
- (b) in the case of a new member—
 - (i) during the period of 10 years beginning with the day on which the first payment is made to the scheme by or on behalf of the member, or, in a case where an amount is credited to the member’s account in respect of a credit within the meaning of section 29 before any payment is made, the day on which that amount is credited, 3/730 per cent.,
 - (ii) otherwise 1/365 per cent.

(8) In this regulation and regulation 14A—

“an established member” means a person who first acquired rights under the scheme before 6th April 2005 and has maintained rights under it since that date, and

“a new member” means a person who first acquired rights under the scheme on or after 6th April 2005, or who reacquired such rights after that date having previously transferred all of his accrued rights under the scheme to another pension scheme or arrangement.

(9) Where the value of any member’s rights is reduced by reference to an amount of charges or expenses of a kind referred to in paragraph (5)(d) or (e), then, for the purposes of calculating any reduction under paragraph (2), (3) or (4) above, the funds held by the scheme are to be calculated after the deduction of any such amount.]

Textual Amendments

- F75** Reg. 14 - 14C substituted for reg. 14 (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **7(1)**
- F76** Words in reg. 14(1) substituted (6.4.2007) by [The Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/814\)](#), regs. 1, **11(2)(a)**
- F77** Word in reg. 14(5)(f) added (6.4.2013) by [The Occupational and Stakeholder Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/459\)](#), regs. 1, **8(4)(a)**
- F78** Word in reg. 14(5)(g) omitted (6.4.2013) by virtue of [The Occupational and Stakeholder Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/459\)](#), regs. 1, **8(4)(b)**
- F79** Reg. 14(5)(h) revoked (6.4.2013) by [The Occupational and Stakeholder Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/459\)](#), regs. 1, **8(2)(b)**
- F80** Reg. 14(5A) inserted (6.4.2007) by [The Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/814\)](#), regs. 1, **11(2)(b)**

[F75] Valuations for the purposes of regulation 14

14A.—(1) For the purposes of paragraphs (2)(a), (3)(a) and (4)(a) of regulation 14, the rights of members must be valued daily, weekly or monthly, but the frequency with which the rights of established members are valued may be different from that with which the rights of new members are valued.

(2) For the purposes of paragraphs (2)(b), (3)(b) and (4)(b) of regulation 14, the funds of the scheme must be valued daily.

(3) Both—

- (a) the frequency, or different frequencies, with which rights are to be valued for the purposes of paragraphs (2)(a), (3)(a) and (4)(a) of regulation 14, and
- (b) where valuation is to take place weekly or monthly, the day of the week or, as the case may be, the date in the month on which it is to take place,

must be specified in writing by the trustees or manager of the scheme; and the specification may not be amended during the period of 12 months after the date on which it is made.

(4) When calculating the value of a member’s rights for the purposes of paragraphs (2)(a), (3) (a) or (4)(a) of regulation 14, where it has been specified under paragraph (3) above that such rights are to be valued weekly or monthly—

- (a) where the rights are to be valued weekly, they are to be valued on such day of the week (“the specified day”) as has been so specified by the trustees or manager (except that, where that day is not a working day, the rights are to be valued on the next working day), and the value of the rights on each subsequent day prior to the next specified day is to be taken to be the value of the rights on the previous specified day, and
- (b) where the rights are to be valued monthly, they are to be valued on such date in each month (“the specified date”) as has been so specified by the trustees or manager (except that, where that date is not a working day, the rights are to be valued on the next working day), and the value of the rights on each subsequent day prior to the next specified date is to be taken to be the value of the rights on the previous specified date.

Textual Amendments

F75 Reg. 14 - 14C substituted for reg. 14 (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), 7(1)

Charges etc.—permitted reductions in funds

14B.—(1) The value of a fund held for the purposes of the scheme may be reduced where any charges or expenses are incurred in the circumstances specified in regulation 14(5)(d) or (e) and are either—

- (a) not attributable to the rights of a member under the scheme, or
- (b) attributable to such rights but the subject of an election by the trustees or manager to recover charges or expenses by way of a reduction of the value of the fund rather than by way of a reduction of the value of the member’s rights,

by the amount of those charges or expenses.

(2) Where the value of a fund is reduced by reference to an amount referred to in paragraph (1), then, for the purposes of calculating any reduction in the member’s rights under paragraph (2), (3) or (4) of regulation 14, the value of those rights is to be calculated after the deduction of that amount.

Textual Amendments

F75 Reg. 14 - 14C substituted for reg. 14 (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **7(1)**

Rounding of fractional amounts

14C. For the purposes of any calculation under regulation 14 or 14B, values and amounts may be determined, at the option of the trustees or manager, by rounding down any fraction of a penny less than one half and rounding up any other such fraction.]

Textual Amendments

F75 Reg. 14 - 14C substituted for reg. 14 (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **7(1)**

[^{F81}Disapplication of regulations 13 to 14C in certain circumstances

14D.—(1) The circumstances referred to in regulation 13(5) are as follows.

(2) In relation to a member of a stakeholder pension scheme that is a personal scheme the circumstances are that—

- (a) the scheme is a qualifying scheme in relation to an employer; and
- (b) the member's workplace contributions are allocated under a default arrangement.

(3) In relation to a member of a stakeholder pension scheme that is an occupational pension scheme, the circumstances are that Part 2 of the Occupational Pension Schemes (Charges and Governance) Regulations 2015 applies to the scheme.

(4) In this regulation, “default arrangement” and “workplace pension contributions” have the meanings given in the FCA Handbook.]

Textual Amendments

F81 Reg. 14D inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **12(3)**

Requirement for trustees or manager to satisfy certain conditions in relation to with-profit funds

15.—(1) Where all or any of a stakeholder pension scheme’s assets are invested in a with-profits fund it shall, for the purposes of section 1(1)(b), be a condition of the scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) A stakeholder pension scheme shall not invest any assets in a with-profits fund that includes non-stakeholder pension scheme assets.

(3) Prior to entering into any agreement whereby any assets of the scheme will be invested in a with-profits fund, the trustees or manager of that scheme shall take such steps as are necessary to ensure that they obtain a written contract from the [^{F82}insurer] maintaining the with-profits fund which provides that the [^{F82}insurer] will, in respect of any period that the stakeholder pension scheme has assets invested in the with-profits fund—

- (a) provide such information to the trustees or manager of the stakeholder pension scheme as is necessary to allow the trustees or manager to operate in compliance with the requirements of regulations 13 or 14;
- (b) ensure that members of the stakeholder pension scheme will not be treated less favourably than any other members of stakeholder pension schemes who may have assets invested in the with-profits fund;
- (c) provide to the trustees or manager of the stakeholder pension scheme any certificates from the auditor and actuary to the ^{F83}insurer that are necessary to allow the ^{F84}trustees or manager to make the declaration mentioned in regulation 12(2)(a);
- (d) ensure that no investments are made in the fund other than the investment of stakeholder pension scheme assets; and
- (e) take such steps as are necessary to comply with paragraph (4).
- (4) The ^{F85}insurer must, at least annually, provide the trustees or manager of the stakeholder pension scheme with a certificate from ^{F86}... the ^{F87}... actuary to the ^{F85}insurer certifying that the ^{F85}insurer has ^{F88}systems which and controls which are of a design such that, and used such that—
- (a) proper accounting records are maintained in respect of all income and expenditure relevant to regulations 13^{F89}, 14 and 14B] and the terms of the contract referred to in paragraph (3);
- (b) the records referred to in sub-paragraph (a) are provided ^{F90}to the auditor of the scheme if requested by the auditor, trustees or manager] ;
- (c) no expenditure is charged to the with-profits fund where that expenditure would be contrary to the requirements of regulation 13 or 14; and
- (d) the terms of the contract referred to in paragraph (3) have been complied with.
- (5) Where the ^{F85}insurer does not comply with the agreement referred to in paragraph (3), the trustees or manager must take such steps as are necessary to ensure that the ^{F85}insurer does so comply.
- ^{F91}(6) In this regulation the “actuary to the insurer” means a person appointed to perform, in relation to the insurer, either or both of the functions specified in paragraph 4.3.1 of the Supervision Sourcebook made by the Prudential Regulation Authority under the Financial Services and Markets Act 2000.]

Textual Amendments

- F82** Word in reg. 15(3) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **595(4)**
- F83** Word in reg. 15(3)(c) substituted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **8(2)**
- F84** Words in reg. 15(3)(c) substituted (9.9.2002) by [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **5(2)**
- F85** Word in reg. 15(4)(5) substituted (3.7.2002) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) Order 2002 \(S.I. 2002/1555\)](#), arts. 1, **40(3)**
- F86** Words in reg. 15(4) omitted (5.4.2001) by virtue of [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **11(3)(a)**
- F87** Word in reg. 15(4) omitted (6.4.2005) by virtue of [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **8(3)**
- F88** Words in reg. 15(4) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **11(3)(b)**
- F89** Words in reg. 15(4)(a) substituted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **7(3)(b)**

- F90** Words in reg. 15(4)(b) substituted (9.9.2002) by [The Stakeholder Pension Schemes \(Amendment No. 2\) Regulations 2002 \(S.I. 2002/2098\)](#), regs. 1(1), **5(3)**
- F91** Reg. 15(6) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 31(b)**

Requirements as regards the provision of other services

16. For the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that—

- (a) the scheme does not provide any service other than the management of the scheme and its funds unless—
- (i) any such service is provided under a contract separate from any contract of membership of the scheme, is provided free of charge or is consistent with regulations 13^[F92], 14 and 14B]; and
- (ii) any contract for such service is in writing and sets out the amount of any charge for the service and the terms on which it is to be paid; and
- (b) it is not a condition of membership of the scheme that any person enter into any contract, whether with the trustees or manager of the scheme or any other person, other than the contract of membership of the scheme.

Textual Amendments

- F92** Words in reg. 16(a)(i) substituted (6.4.2005) by [The Stakeholder Pension Schemes \(Amendment\) Regulations 2005 \(S.I. 2005/577\)](#), regs. 1(1), **7(3)(c)**

Restrictions on contributions

17.—(1) Subject to paragraph (2), ^[F93]the scheme instruments] may permit the trustees or manager to refuse to accept a payment to the scheme of less than £20.

(2) Paragraph (1) does not permit the trustees or manager to refuse to accept any payment made to the scheme by the Inland Revenue by way of tax relief^{F94}....

(3) For the purposes of paragraph (1), amounts in respect of income tax deducted and retained by a member as permitted by ^[F95]section 192 of the Finance Act 2004 (relief at source)] shall not be treated as payments to the scheme.

(4) The trustees or manager of a stakeholder pension scheme may refuse to accept any contribution if its acceptance would contravene the terms of the scheme's ^[F96]tax-registration].

^[F97](4A) the trustees or manager of a stakeholder pension scheme may refuse to accept any contribution by, or on behalf of any member of the scheme who—

- (a) has not given the declaration specified in regulation 5(2) of the Registered Pension Schemes (Relief at Source) Regulations 2005 (declaration of entitlement to tax relief in respect of net contributions); or
- (b) is not a relevant UK individual for the purposes of section 189 of the Finance Act 2004 (relevant UK individual) for the tax year in respect of which the contribution is made.]

^[F98](5) Subject to regulation 3(5B), the scheme instruments may permit restrictions on the means of payment of contributions to the scheme.

(6) The scheme instruments of an occupational pension scheme may permit the trustees or manager to refuse to accept, in respect of any member of the scheme who is not an active member of the scheme, any contribution by or on behalf of or in respect of that member.

(7) For the purposes of paragraph (6), “active member” has the meaning given by section 124 of the 1995 Act.]

Textual Amendments

- F93** Words in reg. 17(1) substituted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **12(2)**
- F94** Words in reg. 17(2) omitted (6.4.2015) by virtue of [The Pensions Act 2007 \(Abolition of Contracting-out for Defined Contribution Pension Schemes\) \(Consequential Amendments\) Regulations 2011 \(S.I. 2011/1245\)](#), regs. 1(2), **20(3)**
- F95** Words in reg. 17(3) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments of Occupational and Personal Pension Schemes Legislation\) Order 2006 \(S.I. 2006/744\)](#), arts. 1, **20(5)(a)**
- F96** Word in reg. 17(4) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments of Occupational and Personal Pension Schemes Legislation\) Order 2006 \(S.I. 2006/744\)](#), arts. 1, **20(5)(b)**
- F97** Reg. 17(4A) inserted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments of Occupational and Personal Pension Schemes Legislation\) Order 2006 \(S.I. 2006/744\)](#), arts. 1, **20(5)(c)**
- F98** Reg. 17(5)-(7) inserted (5.4.2001) by [The Stakeholder Pension Schemes \(Amendment\) \(No.2\) Regulations 2001 \(S.I. 2001/934\)](#), regs. 1(1), **12(3)**

Disclosure of information to members

[^{F99}**18.**—(1) For the purposes of section 1(1)(b), it is a condition of a scheme being a stakeholder pension scheme that the trustees or manager of the scheme comply with the requirements set out in regulations 18A and 18B in addition to such requirements of regulations under section 113 of the 1993 Act (disclosure of information about schemes to members etc.) as are applicable to the scheme.

(2) For the purposes of these Regulations “statement year” means, in relation to a person, the period of 12 months beginning—

- (a) in the case of a person who becomes a member after 6th April 2001, on a date chosen, in respect of that person, by the trustees or manager which falls—
 - (i) on or before the day on which that person becomes a member; but
 - (ii) no earlier than 6th April 2001; and
- (b) in any other case, on 6th April 2001,

and, subject to paragraph (4), each subsequent period ending on and including the anniversary of the last day of the first statement year.

(3) The date to be chosen, in respect of a person, under paragraph (2)(a) must be chosen on or before the day on which that person becomes a member.

(4) For the purposes of paragraph (2), the trustees or manager may, in respect of any person, choose a new date for the ending of the statement year relating to that person if—

- (a) the date chosen—
 - (i) is specified in writing; and
 - (ii) falls before the end of the statement year relating to that person during which the trustees or manager specify the new date; and

(b) no other date has been chosen in respect of that person by the trustees or manager under this paragraph during the previous period of 12 months.

(5) If a new date is chosen under paragraph (4), “statement year” means, in relation to the person in respect of whom the new date is chosen, the period of 12 months ending on and including that new date (except that, in relation to the first statement year relating to that person, “statement year” means, in relation to that person, the period beginning with the day which is, by virtue of paragraph (2) (b) or of a choice under paragraph (2)(a), the first day of that first statement year and ending on and including that new date) and each subsequent period ending on and including the anniversary of that new date.

(6) For the purposes of paragraphs (2)(a) and (4), different dates may be chosen in respect of different persons.

(7) For the purposes of this regulation, regulations 18A and 18B and Schedule 3, “member” does not include any member—

- (a) whose present postal address and electronic address is not known to the trustees or manager; ^{F100}and]
- (b) in respect of whom the trustees or manager have sent correspondence to their last known—
 - (i) postal address and that correspondence has been returned, or
 - (ii) electronic address and the trustees or manager are satisfied that that correspondence has not been delivered; ^{F101} ...

^{F102}(c)

(8) For the purposes of this regulation, regulations 18A and 18B and Schedule 3, “member” includes a dependant making income withdrawals from the scheme in accordance with paragraph 21 of Schedule 28 to the Finance Act 2004 (dependants’ income withdrawal).]

Textual Amendments

- F99** Regs. 18-18E substituted for reg. 18 (1.12.2010) by [The Occupational, Personal and Stakeholder Pension Schemes \(Disclosure of Information\) \(Amendment\) Regulations 2010 \(S.I. 2010/2659\)](#), regs. 1(2), 4(6)
- F100** Word in reg. 18(7)(a) inserted (6.4.2014) by [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(3)(a)**
- F101** Word in reg. 18(7) omitted (6.4.2014) by virtue of [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(3)(b)**
- F102** Reg. 18(7)(c) omitted (6.4.2014) by virtue of [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(3)(c)**

^{F99}**18A.**—(1) [^{F103}Subject to paragraph (1A)] where a person is a member for all or part of a statement year relating to them, there must be provided to that person—

- (a) within three months of the end of that statement year; or
- (b) where that person ceases during that statement year to be a member, during the period beginning with the time at which that person so ceases and ending on and including the last day of the three-month period mentioned in sub-paragraph (a),

a statement which contains the information mentioned in paragraph 1 of Schedule 3 and either paragraph 2 or 3 of Schedule 3, so far as that information relates to that statement year or, in cases falling within sub-paragraph (b) of this paragraph, to the part of that statement year beginning with the first day of that statement year (whether or not that day is earlier than the day on which that person becomes a member) and ending with the time at which that person so ceases.

[
^{F104}(1A) The information mentioned in paragraph (1) need not but may, nevertheless, be given in respect of a statement year where—

- (a) the statement year is the first to end on or after the date the person became a member of the scheme; and
- (b) the end of that statement year falls at a time when—
 - (i) no contributions have been credited to the scheme in respect of the person; or
 - (ii) the person has the right to opt out of the scheme under section 8 of the Pensions Act 2008 (jobholder's right to opt out).

(1B) Where—

- (a) the information is not provided to the person by virtue of paragraph (1A); and
- (b) contributions have been credited in respect of the member in respect of the statement year mentioned in paragraph (1A)(a),

it must be provided no later than the information that relates to the next following statement year.]

(2) Subject to paragraph (4), where a statement is provided under paragraph (1) it must also contain an illustration of the amount, calculated in accordance with regulation 18B, of the pension an entitlement to which would be likely to accrue to the member, or be capable of being secured by the member, at the member's retirement date in respect of rights that may arise under the scheme.

[
^{F105}(2A) For the purposes of paragraph (2), the calculation of the amount of the pension mentioned in paragraph (2) may take account of a lump sum.]

(3) Where information is provided under paragraph (2)—

- (a) that information must be accompanied by the additional information specified in paragraph 5 of Schedule 3; and
- (b) the further information specified in paragraph 6 of Schedule 3 must be provided by one of the methods in paragraph (6) of this regulation.

(4) The requirement to furnish information under paragraph (2) does not apply—

- (a) in respect of a person who is in receipt of pension benefits under the scheme;
- (b) where the last day of the statement year referred to in paragraph 1(b)(i) of Schedule 3 is not more than two years before the date which is the member's retirement date for the purpose of paragraph (2) of this regulation;
- (c) where, in relation to the member—
 - (i) the value, determined by reference to the relevant guidance, of the member's accrued rights to money purchase benefits under the scheme was less than £5,000 on the illustration date in respect of which such information was last furnished to the member;
 - (ii) no contributions, including transfers of pension rights or pension credits, have been made to the scheme by the member or on the member's behalf in respect of money purchase benefits since that date; and
 - (iii) the trustees or manager previously gave notice to the member that no further such information would be furnished to the member unless further contributions to the scheme in respect of money purchase benefits had first been made by the member or on the member's behalf; [^{F106}or]

(d) where, in relation to the member—

- (i) the value, determined by reference to the relevant guidance, of the member's accrued rights to money purchase benefits under the scheme is less than £5,000 on the first illustration date falling after 5th April 2003;
- (ii) no contributions, including transfers of pension rights or pension credits, have been made to the scheme by the member or on the member's behalf after 5th April 2003; and
- (iii) no further contributions are, in the opinion of the trustees or manager, likely to be made to the scheme by the member or on the member's behalf after that illustration date; ^{F107} ...

^{F108}(e)

(5) Where paragraph (4) applies but the trustees or manager nevertheless choose to furnish the information described in paragraph (2) and the amount comprising that information is calculated in accordance with regulation 18B, then—

- (a) that information must be accompanied by the additional information specified in paragraph 5 of Schedule 3; and
- (b) the further information specified in paragraph 6 of Schedule 3 must be provided by one of the methods in paragraph (6) of this regulation,

as if that additional and further information had been provided under paragraph (2).

(6) The methods referred to in paragraphs (3)(b) and (5)(b) are for the further information to—

- (a) accompany the information described in paragraph 5 of Schedule 3; or
- (b) be otherwise furnished by the trustees or manager.

(7) Where—

- (a) a statement has been issued to a member under paragraph (1);
- (b) in that statement, the trustees or manager provided the information listed in paragraph 3, rather than paragraph 2, of Schedule 3 to that member; and
- (c) that member requests any information listed in paragraph 2 of Schedule 3 from the scheme,

the trustees or manager must provide to the member a statement in accordance with the conditions referred to in paragraph (8) of this regulation containing the information listed in paragraph 2 of Schedule 3 which the member has requested.

(8) The conditions referred to in this paragraph as mentioned in paragraph (7) are—

- (a) the statement must be provided—
 - (i) as soon as practicable, and
 - (ii) within two months of the date on which the request referred to in paragraph (7)(c) is received; and
- (b) the information must relate to the same statement year, or part of a statement year, to which the statement issued under paragraph (1) relates.

(9) Each member must be provided with a statement setting out the information in paragraph 7 of Schedule 3.

(10) The statement mentioned in paragraph (9) must be provided within one month of the change mentioned in paragraph 7 of Schedule 3.]

Textual Amendments

- F99** Regs. 18-18E substituted for reg. 18 (1.12.2010) by [The Occupational, Personal and Stakeholder Pension Schemes \(Disclosure of Information\) \(Amendment\) Regulations 2010 \(S.I. 2010/2659\)](#), regs. 1(2), 4(6)
- F103** Words in [reg. 18A\(1\)](#) inserted (6.4.2014) by [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(4)(a)**
- F104** [Reg. 18A\(1A\)\(1B\)](#) inserted (6.4.2014) by [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(4)(b)**
- F105** [Reg. 18A\(2A\)](#) inserted (6.4.2014) by [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(4)(c)**
- F106** Word in [reg. 18A\(4\)](#) inserted (6.4.2014) by [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(4)(d)(i)**
- F107** Word in [reg. 18A\(4\)](#) omitted (6.4.2014) by virtue of [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(4)(d)(ii)**
- F108** [Reg. 18A\(4\)\(e\)](#) omitted (6.4.2014) by virtue of [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(4)(d)(iii)**

[^{F99}**18B.**—(1) The amount referred to in regulation 18A(2) must be determined by reference to—

- (a) the relevant guidance; and
- (b) the assumptions about contributions specified in paragraph (2) ^{F109}..., and such other assumptions as may be specified for the purpose in the relevant guidance,

having regard to the value of the member’s accrued rights to money purchase benefits under the scheme on the illustration date.

- (2) The assumptions about contributions referred to in paragraph (1)(b) are—
 - (a) where the calculation relates to the rights of a non-contributing member, that no contributions will be made to the scheme by the member or on the member’s behalf after the illustration date; and
 - (b) in any other case, that, until the member’s retirement date—
 - (i) contributions to the scheme will be made by the member or on the member’s behalf; ^{F110}and]
 - (ii) the scheme maintains its tax registration under section 153 of the Finance Act 2004 (registration of pension schemes); ^{F111}...

^{F111}(iii)

^{F112}(3)

^{F112}(4)]

Textual Amendments

- F99** Regs. 18-18E substituted for reg. 18 (1.12.2010) by [The Occupational, Personal and Stakeholder Pension Schemes \(Disclosure of Information\) \(Amendment\) Regulations 2010 \(S.I. 2010/2659\)](#), regs. 1(2), 4(6)
- F109** Words in [reg. 18B\(1\)\(b\)](#) omitted (6.4.2014) by virtue of [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(5)(a)**

- F110** Word in reg. 18B(2)(b)(i) inserted (6.4.2012) by The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011 (S.I. 2011/1245), regs. 1(2), **14(3)(a)**
- F111** Reg. 18B(2)(b)(iii) and word omitted (6.4.2012) by virtue of The Pensions Act 2007 (Abolition of Contracting-out for Defined Contribution Pension Schemes) (Consequential Amendments) Regulations 2011 (S.I. 2011/1245), regs. 1(2), **14(3)(b)**
- F112** Reg. 18B(3)(4) omitted (6.4.2014) by virtue of The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734), reg. 1(1), **Sch. 9 para. 9(5)(b)**

[^{F99}Service of information by a scheme

18C.—(1) Except where these Regulations otherwise provide, the trustees or manager of the scheme may furnish or give any relevant information by—

- (a) sending it to a member or beneficiary’s last known postal address; or
- (b) subject to paragraphs (2) to (4), using either or both of the following methods—
 - (i) sending it to a member or beneficiary’s last known electronic address,
 - (ii) making it available on a website (see regulation 18E).
- (2) Where the member or beneficiary has requested in writing that—
 - (a) any relevant information; or
 - (b) all relevant information,

is not furnished or given in accordance with paragraph (1)(b), that relevant information may not be furnished or given in accordance with paragraph (1)(b).

(3) Relevant information may only be furnished or given in accordance with paragraph (1)(b) where the trustees or manager of the scheme are satisfied that the electronic communications have been designed—

- (a) so that members or beneficiaries will be able to—
 - (i) get access to, and
 - (ii) store or print,the relevant information; and
- (b) taking into account the requirements of disabled persons.

[^{F113}(4) Where—

- (a) a member or beneficiary was a member or beneficiary of the scheme on 1st December 2010; and
- (b) relevant information was not given by the trustees or managers of the scheme before that date by the methods described in paragraph (1)(b),

relevant information may not be furnished or given to the member or beneficiary in accordance with paragraph (1)(b) unless the trustees or managers of the scheme have given them the written notice referred to in paragraph (5).]

[^{F113}(4A) The written notice mentioned in paragraph (4) must not be given by the methods mentioned in paragraph (1)(b).]

- (5) The written notice mentioned in paragraph (4) must state that—
 - (a) the trustees or manager of the scheme propose to furnish or give relevant information to the member or beneficiary by means of an electronic communication; and

- (b) the member or beneficiary may request in writing that relevant information is not furnished or given by means of an electronic communication.

(6) In this regulation, “relevant information” means any information, declaration, notice, notification or statement which these Regulations require the trustees or manager of a scheme to give or furnish to a member or beneficiary of the scheme.

Textual Amendments

- F99** Regs. 18-18E substituted for reg. 18 (1.12.2010) by [The Occupational, Personal and Stakeholder Pension Schemes \(Disclosure of Information\) \(Amendment\) Regulations 2010 \(S.I. 2010/2659\)](#), regs. 1(2), **4(6)**
- F113** Reg. 18C(4)(4A) substituted for reg. 18C(4) (6.4.2014) by [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(6)**

Service of information to a scheme

18D. Any—

- (a) request for information to be given or furnished in pursuance of these Regulations; or
 (b) information to be given to the trustees or manager of a scheme in relation to requirements imposed by these Regulations,

may be furnished, made or given by sending it to the trustees or manager of the scheme by post.

Textual Amendments

- F99** Regs. 18-18E substituted for reg. 18 (1.12.2010) by [The Occupational, Personal and Stakeholder Pension Schemes \(Disclosure of Information\) \(Amendment\) Regulations 2010 \(S.I. 2010/2659\)](#), regs. 1(2), **4(6)**

Provision of information on a website

18E.—(1) [^{F114}This regulation and regulation 18F set] out the conditions which must be met when making relevant information available on a website under regulation 18C(1)(b)(ii).

[^{F115}(2) When a website is used for the first time to make available relevant information, a notification must be given to the recipient.]

(3) The notification referred to in paragraph (2) must include—

- (a) a statement that the relevant information is available on the website;
 (b) the website address;
 (c) details of the place on the website where the relevant information may be read; and
 (d) an explanation of how the recipient may read the relevant information on the website.

[^{F116}(4) Subject to regulation 18F, each time a website is used at a subsequent time to make available information or documents, a notification must be given to the recipient.]

[^{F116}(4A) The notification referred to in paragraph (4) must state that the information or document is available on the website.

(4B) The notifications mentioned in paragraphs (2) and (4) must not be given by making them available on a website.]

(5) The notification referred to in paragraph (4) must include a statement that the relevant information is available on the website.

^{F117}(6)

(7) In this regulation [^{F118}and regulation 18F]—

“recipient” means the person or body to whom these Regulations require statements or information to be made available, and

“relevant information” has the same meaning as in regulation 18C(6).]

Textual Amendments

F99 Regs. 18-18E substituted for reg. 18 (1.12.2010) by The Occupational, Personal and Stakeholder Pension Schemes (Disclosure of Information) (Amendment) Regulations 2010 (S.I. 2010/2659), regs. 1(2), **4(6)**

F114 Words in reg. 18E(1) substituted (6.4.2014) by The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734), reg. 1(1), **Sch. 9 para. 9(7)(a)**

F115 Reg. 18E(2) substituted (6.4.2014) by The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734), reg. 1(1), **Sch. 9 para. 9(7)(b)**

F116 Regs. 18E(4)-(4B) substituted for reg. 18E(4) (6.4.2014) by The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734), reg. 1(1), **Sch. 9 para. 9(7)(c)**

F117 Reg. 18E(6) omitted (6.4.2014) by virtue of The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734), reg. 1(1), **Sch. 9 para. 9(7)(d)**

F118 Words in reg. 18E(7) inserted (6.4.2014) by The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734), reg. 1(1), **Sch. 9 para. 9(7)(e)**

^{F119}Provision of information on a website: supplemental

18F.—(1) The notification mentioned in regulation 18E(4) need not be given where paragraphs to (4) are satisfied.

(2) This paragraph is satisfied where—

(a) the trustees or managers of the scheme have given the recipient at least two documents by either of the following methods—

(i) given by hand, or

(ii) sent to the recipient's last known postal address, and

(b) each of those documents—

(i) asks the recipient to give their electronic address to the trustees or managers of the scheme except where the trustees or managers of the scheme do not have the facility for sending information or documents to that address, and

(ii) states that the recipient may request in writing that information or documents are not given by means of an electronic communication.

(3) This paragraph is satisfied where—

(a) paragraph (2) is satisfied, and

(b) the trustees or managers of the scheme have given the recipient, by either of the methods mentioned in paragraph (2)(a), a further document that—

(i) meets the requirements of paragraph (2)(b), and

- (ii) states that further information and documents will be available to read on the website and that no further notifications will be sent to the recipient.
- (4) This paragraph is satisfied where—
- (a) paragraphs (2) and (3) are satisfied, and
- (b) the trustees or managers of the scheme—
- (i) do not know the recipient's electronic address or do not have the facility for sending information or documents to that address, and
- (ii) have not received a written request that information or documents are not given to the recipient by means of an electronic communication.
- (5) Where the information to be made available is that required by regulation 18A(1), the notification referred to in regulation 18E(4) need only be given as required by regulation 18A(1).]

Textual Amendments

F119 Reg. 18F inserted (6.4.2014) by [The Occupational and Personal Pension Schemes \(Disclosure of Information\) Regulations 2013 \(S.I. 2013/2734\)](#), reg. 1(1), **Sch. 9 para. 9(8)**

Requirement for trustees of a stakeholder pension scheme established under a trust

19. For the purposes of section 1(1)(b), it shall be a condition of a scheme which is established under a trust being a stakeholder pension scheme that the scheme comply with sections 35 and 36 (functions of trustees) of the 1995 Act ^{F120}

Textual Amendments

F120 Words in reg. 19 omitted (30.12.2005) by virtue of [The Occupational Pension Schemes \(Scheme Funding\) Regulations 2005 \(S.I. 2005/3377\)](#), regs. 1, 20(1), **Sch. 3 para. 12(2)**

[^{F121}Requirement that a stakeholder pension is not a collective money purchase scheme

19A. For the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that it must not be a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021.]

Textual Amendments

F121 Reg. 19A inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) \(Modifications and Consequential and Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/337\)](#), regs. 1(3), **6**

Changes to legislation:

There are currently no known outstanding effects for the The Stakeholder Pension Schemes Regulations 2000, PART II.