STATUTORY RULES OF NORTHERN IRELAND

2022 No. 191

The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2022

PART 3

Authorisation

Viability certificate

11.—(1) A viability certificate must contain the information specified in Part 3 of Schedule 2.

(2) The scheme actuary must have regard to the following matters when providing a viability certificate and considering whether the design of the scheme is sound—

(a) whether the rules of the scheme meet—

(i) the requirements of section 69 of the 2021 Act (calculation of benefits), and

(ii) the requirements of regulation 17;

(b) whether, in the opinion of the scheme actuary, the trustees have, in the member booklet, the statement of scheme design and the wording used in the most recent statements of benefits—

(i) accurately described the methods by which the scheme determines the rate or amount of benefits provided under the scheme;

(ii) accurately described estimates of the rate or amount of any future pension benefits payable under the design of the scheme;

(iii) accurately explained that the future pension benefits payable under the scheme are subject to annual adjustment in accordance with the scheme rules;

(c) in a case where the certificate is being provided in respect of a collective money purchase scheme the trustees of which are applying for authorisation under section 59 of the 2021 Act (application for authorisation), whether the scheme actuary is satisfied that—

(i) the first gateway test is met, and

(ii) the second gateway test is met;

(d) in a case where a collective money purchase scheme has begun operating and has at least one active member, whether the scheme actuary is satisfied that—

(i) the first live running test is met, and

(ii) the second live running test is met.

(3) In a case where a final version of the member booklet, the statement of scheme design or the wording to be used in the statements of benefits has not been prepared, the reference to that document or wording, as the case may be, in paragraph (2)(b) is to the latest draft of that document or wording, as the case may be.

(4) The first gateway test is met if the estimate of the projected average annual increase in the first 10 years' benefits, calculated on a central estimate basis—

(a) by reference to the contributions to be made into the scheme over the first 10 years by or on behalf of or in respect of the expected active members into the scheme;

(b) by reference to the returns expected to be achieved on the available assets of the scheme during the remaining lives of the first 10 years' beneficiaries, calculated on a central estimate basis, and

(c) based on the premise that such projected annual increase is to be applied over the remaining lives of the first 10 years' beneficiaries,

is no less than the estimate of the projected average annual increase in the prices for goods and services as measured by the consumer prices index, calculated on a central estimate basis.

(5) For the purposes of the first gateway test—

(a) the "first 10 years" means the period of 10 years beginning with the date on which the scheme is expected to begin operating;

(b) the "first 10 years' beneficiaries" means—

(i) the expected active members of the scheme during the first 10 years, and

(ii) the expected survivors in relation to the expected active members of the scheme during the first 10 years;

(c) the "first 10 years' benefits" means the estimated rate or amount of future pension benefits payable under the scheme which relate to the rights to benefits to be accrued under the scheme over a period of 10 years beginning with the date on which the scheme is expected to begin operating.

(6) The second gateway test is met if the expected value of the rights to benefits of each active member which are expected to accrue under the scheme during the relevant period is at least equal in value to the amount of the contributions expected to be made by or on behalf of the member into the scheme in that period (not including contributions made by or on behalf of the employers other than any contributions made as a result of a salary sacrifice arrangement).

(7) The first live running test is met if the expected value of the rights to benefits of each active member which are expected to accrue under the scheme during the relevant period is at least equal in value to the amount of the contributions expected to be made by or on behalf of the member into the scheme in that period (not including contributions made by or on behalf of the employers other than any contributions made as a result of a salary sacrifice arrangement).

(8) For the purposes of paragraphs (6) and (7)—

(a) the expected value of the rights to benefits which are expected to accrue is to be calculated using the methods and assumptions that would be expected to be used for an actuarial valuation of the scheme;

(b) the "relevant period" is—

(i) in paragraph (6), a period of 5 years beginning with the date on which the scheme is expected to begin operating;

(ii) in paragraph (6), a period of 5 years beginning with the date on which the scheme is expected to begin operating.

(9) The second live running test is met if the weighted average of the EVs during the test period is not less than half, but not more than twice, the rate of contributions (expressed as a percentage of pensionable salary) made by or on behalf of or in respect of all active members into the scheme (including contributions made by or on behalf of the employers).

(10) For the purposes of the second live running test—

(a) an EV in relation to an actuarial valuation is the expected value of the rights to benefits which are expected to accrue in the year following the effective date of that actuarial valuation (the "reference period");

(b) an EV is to be calculated in relation to each actuarial valuation—

(i) by reference to the effective date of that valuation;

(ii) using the methods and assumptions that were used for that actuarial valuation;

(c) the EV for the period starting on the day the scheme began operating and ending the day before the effective date of the first actuarial valuation is the value that would have been calculated for an EV if an actuarial valuation with an effective date of the date that the scheme began operating had been obtained by the trustees, calculated using the methods and assumptions that would be expected to have been used for such an actuarial valuation;

(d) an EV is expressed as a percentage of the pensionable salary on the effective date of the actuarial valuation to which it relates (or in the case of the EV referred to in sub-paragraph (c), on the date that the scheme began operating) of all active members on that date;

(e) the EVs are weighted according to the proportion of the test period to which they relate;

(f) where an EV ("EV2") is calculated in relation to a period to which a prior EV ("EV1") relates, the period to which EV1 relates for the purposes of sub-paragraph (e) is the period—

(i) starting the day following the effective date by reference to which EV1 was calculated, and

(ii) ending the day before the period to which EV2 relates;

(g) subject to sub-paragraph (h), the test period is the period of 5 years ending with the last day of the reference period for the EV that has most recently been calculated;

(h) where any of the period referred to in sub-paragraph (g) falls before the scheme began operating, the test period is the period—

(i) starting on the date on which the scheme began operating, and

(ii) ending with the last day of the reference period for the most recent EV that has been calculated.

(11) A viability certificate must be prepared—

(a) in respect of the scheme's first viability certificate, by reference to information as at a date to be agreed between the trustees and the scheme actuary, but not earlier than 10 months before the date when the trustees apply to the Regulator for authorisation;

(b) in respect of any subsequent viability certificate, by reference to information as at a date to be agreed between the trustees and the scheme actuary, but not earlier than 10 months before the date when the certificate is provided to the trustees.

(12) In this regulation—

"consumer prices index" means the consumer prices index calculated and published by the Office for National Statistics;

"member booklet" means a document containing, in relation to a collective money purchase scheme, any basic information about the scheme that regulations made under section 109 of the 1993 Act(**1**) (disclosure of information about schemes to members etc) require the trustees

(**1**) Section 109 was amended by section 48 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)), paragraph 13 of Schedule 10 to the Pensions (Northern Ireland) Order 2005, paragraph 15 of the Schedule to S.R. 2005 No. 434, paragraph 4 of Schedule 5 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)), section 43 of the Pensions Act (Northern Ireland) 2015 and section 38 of the Pension Schemes Act (Northern Ireland) 2016 (c. 1 (N.I.))

of the scheme to provide to members and, if it is practicable to do so, prospective members (each as defined for the purposes of those regulations);

"relevant pension provision" has the meaning given in section 228ZA(7) of the Finance Act 2004(**2**);

"salary sacrifice arrangement" has the meaning given to "relevant salary sacrifice arrangements" in section 228ZA(6) of the Finance Act 2004;

"statement of benefits" means a document containing, in relation to a member of a collective money purchase scheme, any of the following information that regulations made under section 109 of the 1993 Act require the trustees of the scheme to provide to the members (as defined for the purposes of those regulations) of the scheme specified by those regulations—

(a) an illustration of the amount of pension that may be payable to that member on their retirement date;

(b) the amount that represents the member's share of the available assets of the scheme on a specific date, and

(c) other information related to that illustration;

"statement of scheme design" means information explaining the design of a collective money purchase scheme that regulations made under section 97(1) of the 2021 Act (publication of information) require the trustees to publish.

(13) For the purposes of this regulation a collective money purchase scheme begins operating where, in relation to the scheme, a person first accepts money as described in section 58(5)(a) or (b) of the 2021 Act.

(**2**) 2004 c. 12; section 228ZA was inserted by paragraph 10(1) of Schedule 4 to the Finance (No. 2) Act 2015 (c. 33)