

*Regulations made by the Department for Communities and laid before the Assembly under section 112(3) and (4)(a) of the Pensions (No. 2) Act (Northern Ireland) 2008, section 51(3) and (4) (e) and (g) of the Pensions Act (Northern Ireland) 2015 and section 102(5) of the Pension Schemes Act 2021 for approval of the Assembly before the expiration of six months from the date of their coming into operation*

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STATUTORY RULES OF NORTHERN IRELAND

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**2024 No. 15**

**PENSIONS**

**The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2024**

*Made* - - - - *24th January 2024*

*Coming into operation* *26th January 2024*

The Department for Communities<sup>(1)</sup> makes the following Regulations in exercise of the powers conferred by sections 28 and 113(2) of the Pensions (No. 2) Act (Northern Ireland) 2008<sup>(2)</sup>, sections 42 and 51(6) of, and paragraphs 1 and 2 of Schedule 18 to, the Pensions Act (Northern Ireland) 2015<sup>(3)</sup> and sections 54(8), 56(2), 59(4)(a) and (b), 62(2)(e) and (3)(a), 63(2)(b), 64(3), 65(3), 66(4)(a), 67(2), 68(4), (5) and (8), 69(4), 70(2), 71(5), 73(3)(b), 74(3)(c), 78(2), 79(3) and (4), 80(7)(a) and (10)(a) and (b), 84(4)(b) and (10), 87(1)(c), (2)(b) and (c), (5), (6) and (10), 88(3)(b), 89(3), 90(1)(b), 91(4) and (6), 92(2), 94(2) and (4)(b) and (c), 96(3) and (6), 100(2)(b) and (4) and 102(2) and (3) of, and paragraph 1(6) of Schedule 5 to, the Pension Schemes Act 2021<sup>(4)</sup>.

**PART 1**

**Preliminary provisions**

**Citation and commencement**

**1.** These Regulations may be cited as the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2024 and shall come into operation on 26th January 2024.

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(1) See section 1(7) of the Departments Act (Northern Ireland) 2016 (c. 5 (N.I.))  
(2) 2008 c. 13 (N.I.); section 28 was amended by sections 13(2) to (6) and 14 of the Pensions Act (Northern Ireland) 2012 (c. 3 (N.I.)) and section 38(4) of the Pensions Act (Northern Ireland) 2015 (c. 5 (N.I.))  
(3) 2015 c. 5 (N.I.); paragraph 1 was amended by paragraph 25(2) of Schedule 6, and paragraph 15(2) of Schedule 11, to the Pension Schemes Act 2021 (c. 1); see also section 51(4)(g) as inserted by paragraph 24 of Schedule 6 to that Act  
(4) 2021 c. 1

**Interpretation and notices****2.—(1)** In these Regulations—

- “the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993<sup>(5)</sup>;
- “the 1995 Order” means the Pensions (Northern Ireland) Order 1995<sup>(6)</sup>;
- “the 1999 Order” means the Welfare Reform and Pensions (Northern Ireland) Order 1999<sup>(7)</sup>;
- “the 2005 Order” means the Pensions (Northern Ireland) Order 2005<sup>(8)</sup>;
- “the 2021 Act” means the Pension Schemes Act 2021;
- “active member” has the meaning given in Article 121(1) of the 1995 Order;
- “additional charge” means an administration charge for advice, information or a service provided to a member, including where the member requests a transfer to another pension scheme;
- “body corporate” has the meaning given in section 1173(1) of the Companies Act 2006<sup>(9)</sup>;
- “central estimate” means an estimate that is not deliberately either optimistic or pessimistic, does not include any margin for prudence and does not incorporate adjustments to reflect the desired outcome;
- “Code” means a code of practice issued by the Regulator;
- “continuity option” means one of the continuity options listed in section 85(2) of the 2021 Act;
- “continuity strategy” has the meaning given in section 68(2) of the 2021 Act;
- “deferred member” has the meaning given in Article 121(1) of the 1995 Order;
- “discounted level” means a lower level of an administration charge which applies in particular circumstances, including—
- (a) a lower level which applies to members from a particular employer, or
  - (b) a lower level which applies to a member according to the value of the member’s rights in the scheme;
- “effective date” has the meaning given in section 71(6)(a) of the 2021 Act;
- “multi-annual reduction” means an arrangement permitted under the scheme rules under which the trustees apply a reduction to the rate or amount of benefits provided under the scheme over multiple years following an actuarial valuation<sup>(10)</sup>;
- “pensionable service” has the meaning given in Article 121(1) of the 1995 Order;
- “pensioner member” has the meaning given in Article 121(1)<sup>(11)</sup> of the 1995 Order;
- “relevant person” means a person falling within section 66(3) of the 2021 Act;
- “the Regulator” means the Pensions Regulator;
- “scheme year” means—
- (a) a year specified for the purposes of the scheme in any document comprising the scheme, or
  - (b) if no such year is specified, a period of 12 months beginning on 1st April or on such other date as the trustees select;

<sup>(5)</sup> 1993 c. 49<sup>(6)</sup> S.I. 1995/3213 (N.I. 22)<sup>(7)</sup> S.I. 1999/3147 (N.I. 11)<sup>(8)</sup> S.I. 2005/255 (N.I. 1)<sup>(9)</sup> 2006 c. 46<sup>(10)</sup> “Actuarial valuation” is defined in section 71(2) of the Pension Schemes Act 2021<sup>(11)</sup> The definition of “pensioner member” was amended by Article 11(7) of S.I. 2006/745

“service provider” means a person providing advisory, administration, investment or other services in respect of the scheme;

“survivor” has the meaning given in Article 67A(10)(a)(12) of the 1995 Order;

“third-party charge” means any administration charge imposed on or in respect of a member by a person other than the trustees;

“viability certificate” has the meaning given in section 64(1)(b) of the 2021 Act;

“viability report” has the meaning given in section 64(1)(a) of the 2021 Act.

(2) Except where paragraph 1 of Schedule 6 provides otherwise, Article 277 of the 2005 Order (notification and documents in electronic form) is treated as applying to notices and notifications issued in accordance with these Regulations.

(3) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954(13) shall apply to these Regulations as it applies to an Act of the Assembly.

(4) Without prejudice to any other method of service authorised under section 24 of the Interpretation Act (Northern Ireland) 1954, the requirement to send any document under these Regulations may be met by sending it by ordinary post.

### **Connected employers**

3.—(1) For the purposes of section 100(2)(b) of the 2021 Act (interpretation of Part 2), an employer (“A”) is connected with another employer (“B”), and an employer which is a group undertaking of A is connected with an employer which is a group undertaking of B where A and B have separate legal identities but are structured so that the economic position of the shareholders of each is, as far as practicable, the same as if they held shares in a single company comprising the combined businesses of A and B.

(2) In paragraph (1), “group undertaking” has the meaning given in section 1161(5) of the Companies Act 2006 (meaning of “undertaking” and related expressions).

## **PART 2**

### **Schemes divided into sections**

#### **Qualifying schemes**

4.—(1) For the purposes of section 54(8) of the 2021 Act (qualifying schemes), the characteristics prescribed are—

- (a) the rate or amount specified in the rules of the scheme by reference to which qualifying benefits are provided each year under the scheme;
- (b) the rate or amount of contributions paid by the employer;
- (c) the rate or amount of contributions paid by the employee;
- (d) the normal pension age as specified in the rules of the scheme.

(2) In this regulation, “normal pension age” has the meaning given in section 76(1) of the Pension Schemes Act 2015(14) (interpretation of Part 4).

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(12) Article 67A was inserted by Article 239 of the Pensions (Northern Ireland) Order 2005

(13) 1954 c. 33 (N.I.)

(14) 2015 c. 8

**Schemes divided into sections**

5.—(1) Where an undivided scheme becomes a collective money purchase scheme that is divided into sections (a “divided scheme”), an authorisation previously granted in respect of the undivided scheme (the “existing authorisation”) applies to a section if—

- (a) that section of the divided scheme is a collective money purchase scheme by reason of section 52(2)(b) of the 2021 Act (collective money purchase benefits and schemes), and
- (b) the qualifying benefits provided under that section of the divided scheme have the same characteristics set out in regulation 4(1) as those provided under the undivided scheme.

(2) Where an undivided scheme becomes a divided scheme and there are two or more sections providing benefits with the same characteristics set out in regulation 4(1), the trustees of the undivided scheme must determine which section within the divided scheme the existing authorisation will apply to.

(3) Where paragraph (2) applies, the trustees of the undivided scheme must, as soon as reasonably practicable, provide the Regulator with the following information<sup>(15)</sup>—

- (a) the date from which the existing authorisation will apply to the section within the divided scheme, and
- (b) the name of the section within the divided scheme to which the existing authorisation will apply.

(4) In this regulation, “undivided scheme” has the meaning given in section 56(2) of the 2021 Act (schemes divided into sections).

**PART 3****Authorisation****Authorisation: contents**

6.—(1) This regulation applies for the purposes of section 59(4)(a) of the 2021 Act (application for authorisation).

(2) The other information to be included in an application, in relation to each person acting in a capacity mentioned in section 62(2) of the 2021 Act (fit and proper persons requirement), is—

- (a) in the case of an individual—
  - (i) the person’s full name;
  - (ii) the person’s date of birth;
  - (iii) the title and description of the person’s role in relation to the scheme;
  - (iv) (aa) the person’s residential address and address for correspondence, if different, and
  - (bb) if there has been a change to the person’s residential address at any time in the period of 5 years before the date of the application for authorisation, their other residential addresses falling within that period;

<sup>(15)</sup> This information is required to enable the Pensions Regulator to carry out its function under section 77(1) of the Pension Schemes Act 2021

- (v) a criminal conviction certificate obtained by means of an application in accordance with section 112(1) of the Police Act 1997<sup>(16)</sup> (criminal conviction certificates) or, in relation to the law of a country outside the United Kingdom, any equivalent document;
  - (b) where that person is acting in a capacity mentioned in section 62(2)(a) to (d) and that person is a body corporate—
    - (i) the full name of each individual who is performing, or who will be performing, the functions of that person in relation to the scheme in the exercise of a management or executive role in relation to that person;
    - (ii) the date of birth of each such individual;
    - (iii) (aa) the residential address of each such individual and their address for correspondence, if different, and
      - (bb) if there has been a change to each such individual's residential address at any time in the period of 5 years before the date of the application for authorisation, their other residential addresses falling within that period;
  - (c) in the case of any person, responses to a list of questions that may be asked by the Regulator, as part of an application for authorisation, to assess whether the person is a fit and proper person.
- (3) The other information to be included in an application, in relation to whether the scheme is financially sustainable, is the information set out in Part 1 of Schedule 3.
- (4) The other information to be included in an application, in relation to whether the systems and processes used for communicating with members and others are adequate, is details of the systems and processes used, or intended to be used, for the purposes of communicating with relevant persons, including details of the matters set out in Schedule 4.
- (5) The other information to be included in an application, in relation to whether the systems and processes used in running the scheme are sufficient, is—
- (a) details of the systems and processes used, or intended to be used, in the running of the scheme, including details of the matters set out in Schedule 5;
  - (b) whether the systems and processes used, or intended to be used, in the running of the scheme have been devised, applied or maintained by the scheme or a service provider.
- (6) The other information to be included in an application is—
- (a) the name of the scheme;
  - (b) the name of each employer in relation to the scheme;
  - (c) the date on which it is proposed that the scheme will begin operating, subject to the Regulator's decision under section 60(1) of the 2021 Act (decision on application);
  - (d) the contact details of the trustees making the application;
  - (e) a copy of the rules of the scheme;
  - (f) a copy of the scheme's trust deed.
- (7) For the purposes of paragraph (6), the date on which it is proposed that the scheme will begin operating is the date proposed as the date on which, in relation to the scheme, a person is to first accept money as described in section 58(5)(a) or (b) of the 2021 Act.

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<sup>(16)</sup> 1997 c. 50; section 112(1) was amended by section 79(1) of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14), sections 97(2) and 112(2) of, and Part 8 of Schedule 8 to, the Policing and Crime Act 2009 (c. 26), section 80(1) of the Protection of Freedoms Act 2012 (c. 9), S.S.I. 2006/50 and S.I. 2012/3006

**Application for authorisation: fee**

7.—(1) Subject to paragraphs (2) and (3), an application for authorisation of a collective money purchase scheme must be accompanied by a fee of £77,000.

(2) If an application for authorisation is made in respect of a section of a pension scheme and, at the time when the application is made another section of that pension scheme is an authorised collective money purchase scheme, the application must be accompanied by such fee as the Regulator may specify (but see paragraph (4)).

(3) If applications for authorisation are made in respect of two or more sections of the same pension scheme at the same time and, at the time when the applications are made no other section of that pension scheme is an authorised collective money purchase scheme—

- (a) one of the applications for authorisation must be accompanied by a fee of £77,000, and
- (b) all the other applications for authorisation must each be accompanied by such fee as the Regulator may specify (but see paragraph (4)).

(4) A fee specified under paragraphs (2) or (3)(b)—

- (a) must not exceed £77,000, and
- (b) must be calculated on a cost recovery basis.

**Fit and proper persons requirement**

8.—(1) Schedule 1 sets out the matters that the Regulator must take into account in assessing, for the purposes of section 62 of the 2021 Act (fit and proper persons requirement), whether a person is fit and proper to act in a capacity mentioned in section 62(2) of the 2021 Act.

(2) For the purposes of section 62(2)(e) of the 2021 Act, where a person in a capacity mentioned in paragraphs (a) to (d) of section 62(2) is a body corporate, the Regulator must assess whether each individual performing the functions of that person in relation to the scheme, in the exercise of a management or executive role, is a fit and proper person to act in relation to the scheme in that capacity.

**Scheme design requirement**

9. Part 1 of Schedule 2 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 63 of the 2021 Act (scheme design requirement), whether it is satisfied that the design of a collective money purchase scheme is sound.

**Viability report**

10.—(1) A viability report must include the information specified in Part 2 of Schedule 2.

(2) A viability report must be submitted—

- (a) in writing;
- (b) in the format set out in a Code.

(3) The following must be prepared or obtained in connection with a viability report—

- (a) a copy of the rules of the scheme concerning how the rate or amount of benefits provided under the scheme is to be determined;
- (b) a document prepared by the scheme actuary to inform the trustee's consideration as to whether the design of the scheme is sound for the purposes of preparing or reviewing the viability report;

- (c) a document prepared by the trustees, having taken advice from an authorised person, setting out the strategy for investing the assets that arise or derive from the payments made by or in respect of members of the scheme, and
  - (d) any other information or documents as requested by the Regulator.
- (4) The document described at paragraph (3)(b) must include an explanation of—
- (a) the assumptions used by the scheme actuary in carrying out the tests in regulation 11(2) (c) or (d) (as the case may be) and how the use of those assumptions is justified;
  - (b) the conclusions reached by the scheme actuary on the matters contained in regulation 11(2), and
  - (c) the testing or modelling being considered by the trustees including the results of such testing or modelling.
- (5) A viability report must be prepared—
- (a) in the case of the scheme’s first viability report, by reference to information as at a date, chosen by the trustees, which must not be earlier than 10 months before the date when the trustees apply to the Regulator for authorisation;
  - (b) in the case of any subsequent viability report, by reference to information as at a date, chosen by the trustees, which must not be earlier than 10 months before the date when the trustees provide the report to the Regulator.
- (6) If a revised viability report is submitted in accordance with section 64(6)(b) of the 2021 Act (viability report), the viability report must indicate which parts of it have been revised and why.
- (7) In this regulation, “authorised person” means a person who is reasonably believed by the trustees of a collective money purchase scheme to be qualified by their ability in and practical experience of financial matters and to have the appropriate knowledge and experience of the management of the investments of such schemes.

### **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(17) of the 1993 Act (disclosure of information about schemes to members etc) require the trustees 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(18);

“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.

### **Financial sustainability requirement**

**12.**—(1) Part 2 of Schedule 3 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 65 of the 2021 Act (financial sustainability requirement), whether it is satisfied that a collective money purchase scheme is financially sustainable.

(2) Part 3 of Schedule 3 sets out for the purposes of section 65(4)(b) of the 2021 Act the requirements to be met by a collective money purchase scheme in relation to its financing.

### **Communication requirement**

**13.** Schedule 4 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 66 of the 2021 Act (communication requirement), whether it is satisfied that a collective money purchase scheme has adequate systems and processes for communicating with members and others.

(17) 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 4 of Schedule 5 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)), section 43 of the Pensions Act (Northern Ireland) 2015, section 38 of the Pension Schemes Act (Northern Ireland) 2016 (c. 1 (N.I.)), paragraph 15(3) of Schedule 11 to the Pension Schemes Act 2021 and paragraph 15 of the Schedule to S.R. 2005 No. 434

(18) 2004 c. 12; section 228ZA was inserted by paragraph 10(1) of Schedule 4 to the Finance (No. 2) Act 2015 (c. 33)

## **Systems and processes requirement**

14. Schedule 5 sets out the matters that the Regulator must take into account in deciding, for the purposes of section 67 of the 2021 Act (systems and processes requirements), whether it is satisfied that the systems and processes used in running a collective money purchase scheme are sufficient to ensure that the scheme is run effectively.

## **Continuity strategy: contents**

15.—(1) The following information is specified for the purposes of section 68(5)(a) of the 2021 Act (continuity strategy requirement)—

- (a) the steps the trustees would take to decide which continuity option to pursue (if applicable) and the timescales for taking those steps;
- (b) details of—
  - (i) the main decisions and actions that would need to be taken to protect members' interests during a triggering event period;
  - (ii) the person responsible for taking them, and
  - (iii) the timescales for taking them;
- (c) details of strategies for communicating with employers and beneficiaries, including—
  - (i) the information to be provided, and
  - (ii) the stages at which communication would take place;
- (d) details of strategies for communicating with the Regulator;
- (e) details of how the trustees would choose a receiving scheme, if applicable;
- (f) details of how the trustees would choose the policy or policies mentioned in paragraph 2(2) of Schedule 6, if applicable;
- (g) details of how any periodic income to be paid in accordance with paragraph 7 of Schedule 6 would be calculated and paid, if continuity option 1 were to be pursued;
- (h) details of how the value of beneficiaries' accrued rights to benefits would be transferred to a receiving scheme, if applicable;
- (i) details of how beneficiaries' personal data would be transferred to a receiving scheme, if applicable;
- (j) details of how the payment of benefits would be secured in accordance with paragraph 2(2) of Schedule 6, if applicable;
- (k) details of how beneficiaries' personal data would be transferred to an insurer, or insurers, mentioned in paragraph 2(2) of Schedule 6, if applicable;
- (l) details of how members' records are to be maintained during a triggering event period;
- (m) details of how the quantification of the value of each beneficiary's accrued rights to benefits under the scheme would be carried out;
- (n) details of how the trustees would comply with any legal requirements and meet any legal costs arising from a triggering event;
- (o) details of how the trustees would comply with any actuarial requirements and meet any actuarial costs arising from a triggering event;
- (p) a plan for making decisions concerning the scheme's investment strategy, when a triggering event occurs, and for dealing with scheme investments during a triggering event period;
- (q) a plan for dealing with any contributions due from employers and members;

- (r) details of how the scheme’s administration services would continue after a triggering event;
- (s) details of how service providers would be retained and paid during a triggering event period;
- (t) details of how implementation of the continuity strategy would be funded;
- (u) an estimate of the costs of carrying out the actions set out in the continuity strategy.

(2) In deciding, for the purposes of section 68 of the 2021 Act (continuity strategy requirement), whether it is satisfied that a collective money purchase scheme has an adequate continuity strategy, the Regulator must take into account the robustness of any assumptions referred to in the following information which have been used for the purposes of estimating figures included in that information—

- (a) the plan mentioned at paragraph (1)(p), and
  - (b) the details mentioned at paragraph (1)(n), (o), (s) and (t).
- (3) A continuity strategy must be prepared—
- (a) in writing;
  - (b) in the format set out in a Code, and
  - (c) in accordance with any further requirements set out in a Code.

(4) In this regulation—

“beneficiary” has the meaning given in section 87(8) of the 2021 Act (continuity option 1: discharge of liabilities and winding up);

“receiving scheme” means a pension scheme to which the value of a beneficiary’s accrued rights to benefits under the scheme may be transferred in accordance with Schedule 6.

#### **Continuity strategy: administration charges**

**16.**—(1) For the purposes of section 68(4) of the 2021 Act (continuity strategy requirement), with the exception of those administration charges mentioned in regulation 34(1), the section of the continuity strategy setting out the levels of administration charges must set them out as follows.

(2) The section must set out for each charge structure all levels of administration charges in the current scheme year including—

- (a) for any additional charges, and the reason for imposing them;
  - (b) for any third-party charges, and the reason for imposing them;
  - (c) for any other type of administration charge in the scheme, and the reason for imposing it.
- (3) The levels must be set out on an annualised basis.

## PART 4

### Valuation and benefit adjustment

#### **Calculation of benefits**

**17.**—(1) For the purposes of section 69(4) of the 2021 Act (calculation of benefits), the rules of a collective money purchase scheme must contain the provisions set out in paragraphs (2) to (4).

(2) In relation to the determination of the value of the available assets of the scheme, the assets to be taken into account are the available assets of the scheme attributed to the scheme in the relevant

accounts, excluding any resources invested in contravention of Article 40(1) of the 1995 Order (restriction on employer-related investments).

- (3) In relation to the determination of the required amount—
  - (a) that the trustees must apply the methods set out in the scheme rules;
  - (b) that the mortality tables used and the demographic assumptions made, having regard to the main characteristics of the members as a group, must be based on a central estimate basis;
  - (c) that the discount rate must be determined using a central estimate of the estimated future returns on assets held by the scheme or expected to be held in the future;
  - (d) that the inflation assumptions used must be based on a central estimate basis.
- (4) In relation to the adjustment of the rate or amount of benefits provided under the scheme—
  - (a) that the trustees must apply the methods set out in the scheme rules;
  - (b) that any such adjustment must be based on the actuarial valuation calculated by reference to the most recent effective date;
  - (c) that any such adjustment must be applied to all the members of the scheme without variation;
  - (d) that any such adjustment must be applied on the benefit adjustment date;
  - (e) that where an increase is required to the rate or amount of benefits provided under the scheme, before that increase can be applied the trustees must determine—
    - (i) the cost of funding that increase for the remaining lives of—
      - (aa) the beneficiaries of the scheme on the effective date;
      - (bb) the expected survivors in relation to the members of the scheme on the effective date;
    - (ii) that the value of the available assets of the scheme, as determined for the purposes of the actuarial valuation calculated by reference to the most recent effective date, is sufficient to meet the cost of funding that increase for the remaining lives of—
      - (aa) the beneficiaries of the scheme on the effective date;
      - (bb) the expected survivors in relation to the members of the scheme on the effective date.
- (5) For the purposes of paragraph (4)(e) the cost of funding an increase must—
  - (a) be calculated on the basis that the increase will be applied each year;
  - (b) include the projected change in inflation.

(6) Subject to paragraphs (3) and (4), it is for the trustees of a collective money purchase scheme to determine, having obtained advice from the scheme actuary, which assumptions are to be used for the purposes of determining the required amount on which the adjustment to the rate or amount of benefits provided under the scheme is based.

(7) Paragraphs (8) to (13) apply where the scheme rules of a collective money purchase scheme permit the trustees to apply a multi-annual reduction.

(8) The trustees of a collective money purchase scheme may apply a multi-annual reduction to the rate or amount of benefits provided under the scheme provided that—

- (a) the multi-annual reduction is to be applied in full on or before the third benefit adjustment date beginning with the benefit adjustment date which relates to the actuarial valuation as a result of which the multi-annual reduction is to be applied;
- (b) the reduction applied in any year of the multi-annual reduction must not be greater than the reduction applied in the previous year of the multi-annual reduction.

(9) The trustees of a collective money purchase scheme must not vary any planned adjustments under a multi-annual reduction after the first benefit adjustment date which relates to the actuarial valuation as a result of which the multi-annual reduction is to be applied.

(10) Where there is a multi-annual reduction in effect and a subsequent actuarial valuation results in an increase in the rate or amount of benefits provided under the scheme, that increase is to be applied by the trustees, having obtained the advice of the scheme actuary, in addition to the planned reduction for that year under the multi-annual reduction which is in effect.

(11) Where there is a multi-annual reduction in effect and a subsequent actuarial valuation results in a further reduction in the rate or amount of benefits provided under the scheme, that further reduction is to be applied by the trustees, having obtained the advice of the scheme actuary, in addition to the multi-annual reduction which is in effect.

(12) Where there is a single multi-annual reduction in effect and a subsequent actuarial valuation results in a further reduction in the rate or amount of benefits provided under the scheme which is to be applied as a multi-annual reduction (the “second multi-annual reduction”)—

- (a) paragraph (8)(b) does not apply to the second multi-annual reduction;
- (b) the total reduction applied in any year of the second multi-annual reduction must not be greater than the total reduction applied in the previous year of the second multi-annual reduction.

(13) Where there are two (but not more than two) multi-annual reductions in effect and a subsequent actuarial valuation results in a further reduction in the rate or amount of benefits provided under the scheme which is to be applied as a multi-annual reduction (the “third multi-annual reduction”)—

- (a) paragraph (8)(b) does not apply to the third multi-annual reduction;
- (b) the total reduction applied in any year of the third multi-annual reduction must not be greater than the total reduction applied in the previous year of the third multi-annual reduction.

(14) In this regulation—

“beneficiary” has the meaning given in section 87(8) of the 2021 Act (continuity option 1: discharge of liabilities and winding up);

“benefit adjustment date” means the date set out in the scheme rules on which an adjustment to the rate or amount of benefits provided under the scheme following an actuarial valuation must be applied each year;

“relevant accounts”, in relation to an actuarial valuation, are the audited accounts for the scheme which are prepared in respect of the period ending with the effective date of the actuarial valuation.

### **Advice of scheme actuary**

**18.** When advising the trustees of a collective money purchase scheme in accordance with section 70(1) of the 2021 Act (advice of scheme actuary), the scheme actuary must have regard to any guidance which is relevant to determining the matters mentioned in section 69(1) and (2) of the 2021 Act (calculation of benefits) published, and from time to time revised, by—

- (a) the Institute and Faculty of Actuaries (or its successor);
- (b) the Regulator.

### **Actuarial valuations**

**19.—**(1) The trustees of a collective money purchase scheme must obtain—

- (a) an actuarial valuation in which the effective date falls within the period of one year beginning with the day on which the scheme begins operating, and
  - (b) subsequent actuarial valuations in which the effective date is not more than one year after the effective date of the previous actuarial valuation.
- (2) At any time prior to the certification of the actuarial valuation by the scheme actuary<sup>(19)</sup>, the trustees of a collective money purchase scheme may, where the scheme rules so permit, instruct the scheme actuary—
- (a) to adjust the value of the available assets of the scheme to account for changes in asset values since the effective date;
  - (b) to adjust the value of the required amount to account for changes to the scheme membership or other relevant matters since the effective date.
- (3) Before instructing the scheme actuary to make an adjustment described in paragraph (2) the trustees of a collective money purchase scheme must obtain written advice from the scheme actuary.
- (4) An actuarial valuation prepared in accordance with section 71(1) of the 2021 Act (actuarial valuations) must contain the following—
- (a) the methods and assumptions used for the actuarial valuation and how these have been derived;
  - (b) the scheme actuary's certification that the matters mentioned in section 71(2) of the 2021 Act have been determined in accordance with the scheme rules;
  - (c) the total number of members enrolled in the scheme as at the effective date, including a breakdown of the number of active members, deferred members, pensioner members and survivors entitled to the payment of benefits under the scheme;
  - (d) the average age of the active members, deferred members and pensioner members in the scheme as at the effective date;
  - (e) the amount of all benefits in payment as at the effective date;
  - (f) the effective date of the previous actuarial valuation;
  - (g) the value of the available assets of the scheme and the required amount set out in the previous actuarial valuation;
  - (h) whether an adjustment to the rate or amount of the benefits provided under the scheme was required following the previous actuarial valuation;
  - (i) where an adjustment to the rate or amount of the benefits provided under the scheme was required following the previous actuarial valuation, the details of the adjustment and the date the adjustment was applied;
  - (j) a statement as to whether any multi-annual reduction is in effect as at the effective date;
  - (k) where a multi-annual reduction is in effect, the details of the arrangement including—
    - (i) the duration of the multi-annual reduction;
    - (ii) the rate of reduction for each year of the arrangement;
    - (iii) confirmation that previous reductions have been applied in accordance with the details of the arrangement;
    - (iv) the number of years remaining until the multi-annual reduction is applied in full;
  - (l) in relation to the methods and assumptions used for the actuarial valuation—

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<sup>(19)</sup> See section 72 of the Pension Schemes Act 2021

- (i) where there has been no change compared to the methods and assumptions used for the previous actuarial valuation, a statement setting out why the methods and assumptions continue to be appropriate for the scheme, or
- (ii) where there has been a change compared to the methods and assumptions used for the previous actuarial valuation, a statement setting out the justification for any changes to the methods or assumptions used.

(5) The requirements set out at paragraph (4)(f) to (l) do not apply to an actuarial valuation prepared in accordance with paragraph (1)(a).

(6) The trustees of a collective money purchase scheme must obtain an actuarial valuation within a period of 10 months beginning with the effective date of the valuation.

(7) The trustees of a collective money purchase scheme must secure that any actuarial valuation obtained by them is made available to the Regulator before the end of 10 days beginning with the date on which they obtain it.

(8) In this regulation, the day on which a scheme begins operating is the day on which, in relation to the scheme, a person first accepts money as described in section 58(5)(a) or (b) of the 2021 Act.

### **Reporting requirements relating to benefit adjustments**

**20.** A report under section 73(2) of the 2021 Act (benefits adjustments) must, in addition to an explanation of why the adjustment was not made in accordance with the most recent actuarial valuation or (as the case may be) does not take effect in accordance with the scheme rules, contain the following information—

- (a) the level of any adjustments applied;
- (b) the level of the benefit adjustment that should have been applied in accordance with the most recent actuarial valuation or (as the case may be) the scheme rules;
- (c) any proposed remedial actions;
- (d) a timetable for implementing any remedial actions;
- (e) a statement as to whether the failure to apply the benefit adjustment in accordance with the most recent actuarial valuation or (as the case may be) the scheme rules will or is likely to result in any negative impact on the scheme's ongoing ability to provide the pension benefits under the design of the scheme;
- (f) where there is or is likely to be a negative impact on the scheme's ongoing ability to provide the pension benefits, details of any proposed actions to address this.

### **Powers of the Regulator**

**21.—(1)** A direction issued by the Regulator under section 74(2)(a) of the 2021 Act (powers of the Pensions Regulator) must set out the matters that the Regulator has considered in determining to issue the direction.

(2) A direction issued by the Regulator under section 74(2)(b) of the 2021 Act must set out the following—

- (a) the relevant matters that the Regulator has considered in determining to issue the direction;
- (b) a timetable for implementing any steps or actions specified by the Regulator.



## PART 5

### Ongoing supervision

#### Supervisory return: contents

**22.** For the purposes of section 78(2) of the 2021 Act (requirement to submit supervisory return), the Regulator may require the following information to be included in a supervisory return, to the extent that it has not already been provided to the Regulator—

- (a) details of how trustees' competence is being maintained, with particular reference to their compliance with the knowledge and understanding requirements in Articles 224 (requirement for knowledge and understanding: individual trustees), 225(20) (requirement for knowledge and understanding: corporate trustees) and 226 (requirement for knowledge and understanding: supplementary) of the 2005 Order as applicable;
- (b) any other information that is relevant to the authorisation criteria listed in section 60(3) of the 2021 Act (decision on application).

#### Significant events

**23.—**(1) The following are significant events for the purposes of section 79 of the 2021 Act (duty to notify the Pensions Regulator of significant events)—

- (a) a proposal to change or add to the persons involved in the scheme in the capacities mentioned in section 62(2) of the 2021 Act (fit and proper persons requirement);
- (b) an individual who is involved with the scheme in a capacity mentioned in section 62(2) of the 2021 Act, or whose involvement in the scheme in that capacity has been suspended while the individual's appointment is being considered—
  - (i) is convicted of an offence;
  - (ii) enters bankruptcy;
  - (iii) has a County Court judgment registered, or in Scotland a decree of the Sheriff Court issued, against him or her;
  - (iv) is sanctioned by a regulator other than the Regulator;
  - (v) is disqualified as a company director;
  - (vi) has been the subject of an adverse judgment or has reached a settlement in civil proceedings, including in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;
  - (vii) has contravened any of the requirements or standards of a regulator, including the Regulator;
  - (viii) has a change of circumstances, through ill health or otherwise, which materially impairs the individual's ability to operate in a capacity mentioned in section 62(2) of the 2021 Act;
  - (ix) has any other change of circumstances which the person required to give notice considers likely to affect the Regulator's assessment under section 62 of the 2021 Act of whether the individual is a fit and proper person;
- (c) a significant change to the scheme's investment strategy;
- (d) a proposal to change the design of the scheme including, but not limited to, the following—
  - (i) a proposal that the scheme should become a closed scheme;

- (ii) where the scheme is a collective money purchase scheme for the purposes of section 52(2)(a) of the 2021 Act (collective money purchase benefits and schemes) and the scheme is not divided into sections, a proposal for the scheme to become a scheme that is divided into sections;
  - (e) where the scheme is a collective money purchase scheme for the purposes of section 52(2)(b) of the 2021 Act, a proposal to provide qualifying benefits, or other benefits, under a new section of the qualifying scheme;
  - (f) a failure to obtain a viability certificate in accordance with section 64(4) or (5) of the 2021 Act (viability report);
  - (g) an event which, in the opinion of a person mentioned in section 79(2) of the 2021 Act (duty to notify the Pensions Regulator of significant events), undermines, or is likely to undermine, the soundness of the design of the scheme;
  - (h) an event which has resulted or, in the opinion of a person mentioned in section 79(2) of the 2021 Act, is likely to result in the scheme being unable to meet the requirements of Part 3 of Schedule 3;
  - (i) the scheme is unable or, in the opinion of a person mentioned in section 79(2) of the 2021 Act, is unlikely to be able to meet its running costs;
  - (j) in the opinion of a person mentioned in section 79(2) of the 2021 Act, the scheme will be unable or is unlikely to be able, to meet the costs mentioned in section 65(2)(b) of the 2021 Act (financial sustainability requirement);
  - (k) a failure of the systems or processes used in running the scheme which has a significant adverse effect on the security or quality of data or on service delivery;
  - (l) a failure of the systems and processes for communicating with relevant persons which has a significant adverse effect on communications with relevant persons;
  - (m) a proposal to make a significant change to the systems and processes used in running the scheme (including the systems and processes for communicating with relevant persons), including a change in who the persons are that are responsible for delivering key services to the scheme;
  - (n) an investigation of the scheme, or of a person involved in the scheme, by a regulator or other competent authority inside or outside the United Kingdom.
- (2) In this regulation, the significant events listed in paragraph (1)(a), (c) to (e), (g), (h) and (k) to (n) are specified significant events.
- (3) For the purposes of section 79(4) of the 2021 Act, a person who is required to give notice of a specified significant event and who is aware of the specified further information relating to that event set out in paragraphs (4) to (8) as applicable, must provide the specified further information, in writing, to the Regulator, as soon as reasonably practicable.
- (4) Where the specified significant event is a proposal or a change mentioned in paragraph (1)(a), (c) to (e), or (m), the specified further information relating to that event is—
- (a) details of the proposal or change;
  - (b) the reasons for the proposal or change;
  - (c) the objectives of the proposal or change;
  - (d) how the interests of members of the scheme have been taken into account.
- (5) Where the specified significant event is that an event mentioned in paragraph (1)(g) has occurred, the specified further information relating to that event is—
- (a) the nature of the event;

- (b) the reasons why the person mentioned in paragraph (1)(g) is of the opinion that the event undermines, or is likely to undermine, the soundness of the design of the scheme.
- (6) Where the specified significant event is that an event mentioned in paragraph (1)(h) has occurred, the specified further information relating to that event is—
  - (a) the nature of the event;
  - (b) if the person mentioned in paragraph (1)(h) is of the opinion that the event is likely to result in the scheme being unable to meet the requirements of Part 3 of Schedule 3, the reasons for this opinion.
- (7) Where the specified significant event is that a failure mentioned in paragraph (1)(k) or (l) has occurred, the specified further information relating to that event is—
  - (a) the nature of the failure;
  - (b) the contact details of the person with responsibility for addressing the effect of the failure.
- (8) Where the specified significant event is an investigation of the scheme, or of a person involved in the scheme, by a regulator or other competent authority inside or outside the United Kingdom, the specified further information relating to that event is—
  - (a) the nature of the investigation;
  - (b) the contact details of the regulator or other competent authority.
- (9) In this regulation, “closed”, in relation to a collective money purchase scheme, means closed to new contributions or new members (or both).

### **Risk notices**

- 24.**—(1) The date referred to in section 80(3)(b) of the 2021 Act (risk notices) must fall before the end of 14 days beginning with the date on which the risk notice was issued.
- (2) The date referred to in section 80(4) of the 2021 Act must fall before the end of 7 days beginning with the date on which the further notice was issued.
- (3) For the purposes of section 80(7)(a) of the 2021 Act, the first progress report must be submitted before the end of 14 days beginning with the date on which the Regulator notifies the trustees that it is satisfied that the proposals in the resolution plan are likely to be adequate to resolve the issue of concern.
- (4) A risk notice must—
  - (a) state that the Regulator considers—
    - (i) that the issue identified in the notice is an issue of concern in relation to the scheme, and
    - (ii) that the scheme will breach the authorisation criteria, or is likely to breach them, if the issue is not resolved;
  - (b) contain a statement of the Regulator’s grounds for its consideration and of the evidence on which its consideration is based, and
  - (c) explain that Article 10(21) of the 1995 Order (civil penalties) applies to a trustee who fails to comply with the notice.

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(21) Article 10 was amended by paragraph 9 of Schedule 2 to the Welfare Reform and Pensions (Northern Ireland) Order 1999, Schedule 11 to the Pensions (Northern Ireland) Order 2005 and paragraph 15 of Schedule 8 to the Pension Schemes Act 2021

## PART 6

### Triggering events and continuity options

#### Triggering events: notification requirements

**25.**—(1) For the purposes of section 84(4)(b) of the 2021 Act (notification of triggering events), a trustee who is required to give a required notification under section 84(3) of the 2021 Act must notify each employer and any relevant former employer of the following matters—

- (a) that the trustees—
  - (i) have submitted an implementation strategy to the Regulator and the date on which they did so, or
  - (ii) will submit an implementation strategy to the Regulator before the end of the period specified in regulation 26, and
  - (iii) in either case, will make the implementation strategy available to each employer and any relevant former employer after it has been approved by the Regulator;
- (b) the timetable for future communications with each employer and any relevant former employer.

(2) Notifications under section 84 of the 2021 Act must be given before the end of—

- (a) 7 days (in the case of notifications to the Regulator);
- (b) 14 days (in the case of notifications to an employer or any relevant former employer), or
- (c) 2 days (in the case of notifications to trustees),

beginning with the date specified in paragraph (3).

(3) The specified date is—

- (a) the date on which the triggering event occurred, in the case of—
  - (i) notifications given under section 84(1) of the 2021 Act—
    - (aa) by the employer or relevant former employer, in respect of an item 4 triggering event;
    - (bb) by the person who made the decision, in respect of an item 6 or 8 triggering event;
  - (ii) notifications given under section 84(7) or (8) of the 2021 Act;
- (b) the date on which the employer or relevant former employer becomes aware that they are unlikely to continue as a going concern, in the case of notifications given under section 84(1) of the 2021 Act by the employer or relevant former employer in respect of an item 5 triggering event;
- (c) the date on which the person under the duty to notify became aware that the event had occurred, in the case of—
  - (i) notifications given under section 84(1) of the 2021 Act which are not mentioned in sub-paragraph (a)(i);
  - (ii) notifications given under section 84(3) or (9) of the 2021 Act.

#### Implementation strategy: approval

**26.** Where the trustees of a collective money purchase scheme are required to submit an implementation strategy to the Regulator for approval, it must be submitted before the end of 28 days beginning with the date on which—

- (a) the decision to withdraw authorisation becomes final, in relation to an item 1 or 2 triggering event, or
- (b) the triggering event occurred, in relation to an item 3 to 9 triggering event.

**Implementation strategy: charges**

27.—(1) The information to be included in the implementation strategy about the levels of administration charges in relation to members of the scheme—

- (a) must relate to the levels of administration charges for the scheme years specified in paragraph (2), and
  - (b) with the exception of those administration charges mentioned in regulation 34(1) (administration charges during a triggering event period), must be set out in accordance with paragraphs (3) and (4).
- (2) The specified scheme years are—
- (a) the scheme year in which the triggering event occurred, and
  - (b) the scheme year preceding the one in which the triggering event occurred.
- (3) The trustees must set out for each charge structure all levels of administration charges including—
- (a) for any additional charges, and the reason for imposing them;
  - (b) for any third-party charges, and the reason for imposing them;
  - (c) for any other type of administration charge in the scheme, including the reason for imposing it.
- (4) The levels in paragraph (3) must be set out on an annualised basis.
- (5) For the purposes of section 96(3)(b) of the 2021 Act (prohibition on increasing charges etc during triggering event period), during a triggering event period for a collective money purchase scheme, the trustees must not impose administration charges on or in respect of members at levels above the fixed charge level.
- (6) For the purposes of paragraph (5) the fixed charge level is calculated as follows—
- (a) the trustees must compare each level from the levels set out in the implementation strategy for the scheme year in paragraph (2)(a) with the corresponding level from the levels set out for the scheme year in paragraph (2)(b), and take the lower of the two levels as the fixed charge level, and
  - (b) where the triggering event period is more or less than a full year, the levels in sub-paragraph (a) must be applied on a pro rata basis.

**Implementation strategy: content**

28.—(1) An implementation strategy must contain—

- (a) details of—
  - (i) the main decisions and actions that will be taken, in relation to the continuity option being pursued, to address the triggering event that has occurred;
  - (ii) the person responsible for taking them, and
  - (iii) the timescales for taking them;
- (b) a communications plan setting out what information will be communicated to employers and beneficiaries and when, including information about—
  - (i) the continuity option being pursued, and

- (ii) key milestones and when they are to be (or were) achieved;
  - (c) if continuity option 1 is being pursued, a plan setting out how the scheme's liability to each beneficiary in respect of the value of their accrued rights to benefits under the scheme is to be discharged under the proposal formulated by the trustees in accordance with section 87(1)(b) of the 2021 Act (continuity option 1: discharge of liabilities and winding up);
  - (d) if continuity option 1 is being pursued, details of how any periodic income to be paid in accordance with paragraph 7 of Schedule 6 would be calculated and paid;
  - (e) a plan setting out how the integrity of members' records will be maintained during the triggering event period;
  - (f) details of how assets held by the scheme would be converted into a cash equivalent of the value of each beneficiary's accrued rights to benefits under the scheme, if applicable;
  - (g) details of how the trustees will comply with any legal requirements and meet any legal costs arising from the triggering event that has occurred and the continuity option being pursued;
  - (h) details of how the trustees will comply with any actuarial requirements and meet any actuarial costs arising from the triggering event that has occurred and the continuity option being pursued;
  - (i) details of how scheme investments will be managed during the triggering event period;
  - (j) a plan for dealing with any outstanding contributions due from employers and members;
  - (k) details of how the scheme's administration services will continue during the triggering event period;
  - (l) details of how service providers are to be retained and paid during the triggering event period;
  - (m) details of how carrying out the steps identified in the implementation strategy, including steps relating to the continuity option being pursued, is to be funded;
  - (n) details of when and how the process of determining the rate or amount of benefits provided under the scheme is to be carried out in accordance with section 69 of the 2021 Act (calculation of benefits), if applicable.
- (2) An implementation strategy must be prepared—
- (a) in writing;
  - (b) in the format set out in a Code, and
  - (c) in accordance with any further requirements set out in a Code.
- (3) After approval by the Regulator, the implementation strategy must be made available to the employers and any relevant former employer in relation to the scheme before the end of 7 days beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved.

### **Continuity option 1: discharge of liabilities and winding up**

**29.** Schedule 6 applies when the trustees of a collective money purchase scheme are required, or decide, to pursue continuity option 1.

### **Continuity option 2: resolving the triggering event**

**30.** For the purposes of section 88(3)(b) of the 2021 Act (continuity option 2: resolving triggering event), the notification to the Regulator setting out how the trustees consider that a triggering event

(“the relevant event”) has been resolved must be given before the end of 14 days beginning with the later of—

- (a) the date on which the relevant event was, in the trustees’ opinion, resolved, and
- (b) if any other event within the second column of the triggering events table has occurred in relation to the scheme since the occurrence of the relevant event, the date on which such other events have, in the trustees’ opinion, been resolved.

### **Continuity option 3: conversion to closed scheme**

**31.**—(1) For the purposes of section 89(3) of the 2021 Act (continuity option 3: conversion to closed scheme), the notification to the Regulator under section 89(2) of the 2021 Act must be given before the end of 28 days beginning with the date on which the trustees consider that preparations for the conversion of the scheme into a closed scheme are complete.

(2) Preparations for the conversion of the scheme into a closed scheme are not complete unless the steps identified in the implementation strategy, in order to carry out continuity option 3, are complete.

### **Periodic reporting requirement**

**32.**—(1) For the purposes of section 94(2) of the 2021 Act (periodic reporting requirements) the first report must be submitted to the Regulator before the end of 14 days beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved.

- (2) For the purposes of section 94(4)(b) of the 2021 Act, the reports must record—
  - (a) decisions made by the trustees and employers concerning the continuity option being pursued;
  - (b) where continuity option 1 is being pursued, decisions made by the trustees and employers in relation to the proposal formulated in accordance with section 87(1)(b) of the 2021 Act (continuity option 1: discharge of liabilities and winding up) for discharging the scheme’s liability to each beneficiary.
- (3) The following information is specified for the purposes of section 94(4)(c) of the 2021 Act—
  - (a) if the person preparing the report is not an independent trustee appointed pursuant to Article 23(1)(**22**) of the 1995 Order (power to appoint independent trustees), the name and address of that person;
  - (b) the name and address of the scheme actuary;
  - (c) a statement as to whether any of the scheme’s administration services are being carried out by a person other than a trustee, and if so the name and address of that person;
  - (d) a statement as to whether any of the scheme’s administration services are being carried out by a person other than a trustee, and if so the name and address of that person;
  - (e) details of whether any particular issues are affecting the trustees’ ability to pursue or complete the steps identified in the implementation strategy.

### **Pause orders**

**33.** Where a pause order containing a direction under section 95(5)(e) of the 2021 Act (pause orders) has effect in respect of a scheme, section 95(**23**) of the 1993 Act (trustees’ duties after

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(22) Article 23 was substituted by Article 32(3) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

(23) Section 95(2) was substituted by paragraph 59(2) of Schedule 4 to the Pension Schemes Act 2015 (c. 8) and amended by section 76(4) of the Pension Schemes Act 2021 (c. 1)

exercise of option) has effect in relation to that scheme as if for subsection (2)(c) of section 95 there were substituted—

- “(c) in the case of an application which relates to money purchase benefits that are collective money purchase benefits, by the later of—
- (i) the last day of the period of 6 months beginning with the date of the application or such longer period beginning with that date as may be prescribed, and
  - (ii) where a pause order made under section 95(2) of the Pension Schemes Act 2021 and containing a direction under section 95(5)(e) of that Act has effect in relation to that scheme before the last day of the period referred to in sub-paragraph (i), the last day of the period of 3 months beginning with the date on which the pause order ceases to have effect.”.

### **Administration charges during a triggering event period**

**34.**—(1) Section 96(1) and (2) of the 2021 Act (prohibition on increasing charges etc during triggering event period) do not apply in relation to the following administration charges—

- (a) costs incurred as a result of the buying, selling, lending or borrowing of investments;
- (b) where a court order provides for the recovery by the trustees of costs incurred in complying with the order, the amount of those costs;
- (c) charges permitted by regulations made under Article 22 (charges by pension arrangements in relation to earmarking orders) or 38 (charges in respect of pension sharing costs) of the 1999 Order;
- (d) costs solely associated with the provision of death benefits;
- (e) costs solely attributable to holding physical assets.

(2) Section 96(2) of the 2021 Act does not apply, in respect of a receiving scheme that is a Master Trust scheme, in relation to any administration charges imposed on or in respect of a member of the scheme in relation to a member’s flexi-access drawdown fund.

(3) For the purposes of section 96(6) of the 2021 Act, section 96 of the 2021 Act, with the exception of subsection (1), applies to a relevant alternative receiving scheme in the same way as it applies to a receiving scheme that is a Master Trust scheme.

(4) For the purposes of paragraph (3), a relevant alternative receiving scheme is a receiving scheme that—

- (a) has the characteristics mentioned in paragraph 2(1)(a) of Schedule 6, and
- (b) is not a collective money purchase scheme or a Master Trust scheme.

(5) For the purposes of paragraph (1)(e), the costs solely attributable to holding a physical asset include—

- (a) the costs of managing and maintaining the asset;
- (b) fees for valuing the asset;
- (c) the cost of insuring the asset;
- (d) ground rent, charges, rates, taxes and utilities bills incurred in relation to the asset.

(6) In this regulation—

“commodity” means any goods of a fungible nature that are capable of being delivered, including metals and their ores and alloys, agricultural products and energy such as electricity,



but not including cash or financial instruments (within the meaning of Article 3 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001<sup>(24)</sup>);

“member’s flexi-access drawdown fund” has the meaning given in paragraph 1(1) of Schedule 6;

“physical asset” means an asset whose value depends on its physical form, including—

- (a) land;
- (b) buildings and other structures on land or sea;
- (c) vehicles, ships, aircraft or rolling stock, and
- (d) commodities;

“receiving scheme” has the meaning given in section 96(8) of the 2021 Act.

## PART 7

### Collective money purchase benefits – amendments to subordinate legislation

#### **Collective money purchase benefits – amendments to subordinate legislation**

**35.** Schedule 7 contains amendments to subordinate legislation in relation to pension schemes providing collective money purchase benefits.

## PART 8

### Revocation

#### **Revocation**

**36.** The Occupational Pension Schemes (Collective Money Purchase Schemes) (No. 2) Regulations (Northern Ireland) 2023<sup>(25)</sup> are revoked.

Sealed with the Official Seal of the Department for Communities on 24th January 2024

(L.S.)

*David Tarr*  
A senior officer of the Department for  
Communities

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<sup>(24)</sup> [S.I. 2001/544](#); the definition of “financial instrument” was inserted by Article 3(b) of [S.I. 2006/3384](#) and amended by Article 2(4) of [S.I. 2017/488](#) and regulation 121(4) of [S.I. 2019/632](#)

<sup>(25)</sup> [S.R. 2023 No. 117](#)

## SCHEDULE 1

Regulation 8

## Fit and proper persons requirement

## 1.—(1) In this Schedule—

“arrangement” means a voluntary arrangement entered into by an individual with their creditors;

“the Bankruptcy Act” means the Bankruptcy (Scotland) Act 2016<sup>(26)</sup>;

“the Insolvency Act” means the Insolvency Act 1986<sup>(27)</sup>;

“the Insolvency Order” means the Insolvency (Northern Ireland) Order 1989<sup>(28)</sup>;

“the registrar of companies” has the meaning given by section 1060(3) of the Companies Act 2006<sup>(29)</sup>.

## (2) In paragraph 2(a)—

“adjudicator” has the meaning given by section 385(1)<sup>(30)</sup> of the Insolvency Act;

“creditor” has the meaning given by section 383(1)<sup>(31)</sup> of the Insolvency Act.

## (3) In paragraph 2(b)—

“the Accountant in Bankruptcy” has the meaning given by section 199(1) of the Bankruptcy Act;

“creditor” has the meaning given by section 383(1) of the Insolvency Act;

“debtor application” has the meaning given by section 228(1) of the Bankruptcy Act;

“sequestration” has the meaning given by section 1 of the Bankruptcy Act.

## (4) In paragraph 2(c)—

“bankrupt”, “bankruptcy order” and “bankruptcy petition” have the meanings given in Article 9(1) of the Insolvency Order;

“the court” is defined in rule 0.2 of the Insolvency Rules (Northern Ireland) 1991<sup>(32)</sup>;

“creditor” has the meaning given in Article 9(1) of the Insolvency Order.

2. For the purposes of section 62(3)(a) of the 2021 Act (fit and proper persons requirement), the Regulator must take into account the following matters when assessing whether a person is fit and proper to act in a capacity mentioned in section 62(2) of the 2021 Act—

## (a) whether, in England and Wales, the person has—

(i) made any arrangement with the person’s creditors;

(ii) applied to an adjudicator under section 263H<sup>(33)</sup> of the Insolvency Act (bankruptcy applications to an adjudicator) for a bankruptcy order within the meaning given by section 381(2)<sup>(34)</sup> of the Insolvency Act (“bankrupt” and associated terminology);

(iii) been served with a bankruptcy petition within the meaning given by section 381(3) of the Insolvency Act;

<sup>(26)</sup> 2016 asp 21

<sup>(27)</sup> 1986 c. 45

<sup>(28)</sup> S.I. 1989/2405 (N.I. 19)

<sup>(29)</sup> 2006 c. 46

<sup>(30)</sup> Section 385(1) was amended by paragraph 55 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013 (c. 24)

<sup>(31)</sup> Section 383(1) was amended by Schedule 16 to the Criminal Justice Act 1988 (c. 33) and paragraph 53 of Schedule 19 to the Enterprise and Regulatory Reform Act 2013

<sup>(32)</sup> S.R. 1991 No. 364

<sup>(33)</sup> Section 263H was inserted by section 71(2) of the Enterprise and Regulatory Reform Act 2013 (c. 24)

<sup>(34)</sup> Section 381(2) was amended by paragraph 52(4) of Schedule 19 to the Enterprise and Regulatory Reform Act 2013

- (iv) been made bankrupt within the meaning given by section 381(1)(35) of the Insolvency Act;
  - (v) been the subject of a bankruptcy restrictions order made under paragraph 1 (bankruptcy restrictions order) of Schedule 4A(36) to the Insolvency Act (including an interim bankruptcy restrictions order made under paragraph 5 (interim bankruptcy restrictions order) of that Schedule), or
  - (vi) offered a bankruptcy restrictions undertaking made under paragraph 7 (bankruptcy restrictions undertaking) of Schedule 4A to the Insolvency Act;
- (b) whether, in Scotland, the person has—
- (i) made any arrangement with the person’s creditors;
  - (ii) made a debtor application to the Accountant in Bankruptcy for sequestration;
  - (iii) been served with a petition for sequestration;
  - (iv) been the subject of an award of sequestration in accordance with section 22 of the Bankruptcy Act (when sequestration is awarded), or
  - (v) been the subject of a bankruptcy restrictions order within the meaning given by section 155(1) (bankruptcy restrictions order) of the Bankruptcy Act (including an interim bankruptcy restrictions order within the meaning given by section 160 (interim bankruptcy restrictions orders) of the Bankruptcy Act);
- (c) whether, in Northern Ireland, the person has—
- (i) made any arrangement with the person’s creditors;
  - (ii) petitioned the court for a bankruptcy order;
  - (iii) been served with a bankruptcy petition;
  - (iv) been adjudged bankrupt;
  - (v) been the subject of a bankruptcy restrictions order made under paragraph 1 (bankruptcy restrictions order) of Schedule 2A(37) to the Insolvency Order (including an interim bankruptcy restrictions order made under paragraph 5 (interim bankruptcy restrictions order) of that Schedule), or
  - (vi) offered a bankruptcy restrictions undertaking made under paragraph 7 (bankruptcy restrictions undertaking) of Schedule 2A to the Insolvency Order;
- (d) whether the person has been a director(38) or partner of, or otherwise concerned in the management of, a business that has gone into insolvency, liquidation or administration while the person was concerned with that business or within one year of their being so concerned;
- (e) whether—
- (i) in Great Britain, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders Act 1974(39), or
  - (ii) in Northern Ireland, the person has been convicted of any criminal offence, excluding convictions that are spent within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978(40);

(35) Section 381(1) was amended by paragraph 52(2) of Schedule 19 to the Enterprise and Regulatory Reform Act 2013

(36) Schedule 4A was inserted by section 257(2) of the Enterprise Act 2002 (c. 40)

(37) Schedule 2A was inserted by Article 13(2) of the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10))

(38) “Director” is defined in section 62(6) of the Pension Schemes Act 2021 for the purposes of that section as having the meaning given in Article 5 of the Insolvency (Northern Ireland) Order 1989

(39) 1974 c. 53

(40) S.I. 1978/1908 (N.I. 27)

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- (f) whether there has been a judgment against the person or the person has reached a settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;
- (g) whether—
  - (i) in Great Britain, the person has been subject to a disqualification order under section 1(1) (disqualification orders: general), or a disqualification undertaking under section 1A(1) (disqualification undertakings: general) of the Company Directors Disqualification Act 1986<sup>(41)</sup>, or
  - (ii) in Northern Ireland, the person has been subject to a disqualification order under Article 3(1) (disqualification orders: general), or a disqualification undertaking under Article 4(1) (disqualification undertakings: general) of the Company Directors Disqualification (Northern Ireland) Order 2002<sup>(42)</sup>;
- (h) whether the person has contravened any of the requirements or standards of—
  - (i) a regulator, including the Regulator, or
  - (ii) the registrar of companies<sup>(43)</sup>;
- (i) any information received from—
  - (i) a regulator, or
  - (ii) the registrar of companies;
- (j) the person’s conduct in relation to, or arising out of or in connection with, any work the person has carried out in one or more of the capacities mentioned in section 62(2) of the 2021 Act—
  - (i) in the period of 5 years ending with the date of the application for authorisation of the scheme, and
  - (ii) at any time since the date of the application for authorisation of the scheme;
- (k) whether—
  - (i) in Great Britain, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the Pensions Act 1995<sup>(44)</sup> (interpretation of Part 1), under—
    - (aa) section 3<sup>(45)</sup> of the Pensions Act 1995 (prohibition orders), or
    - (bb) any other legislation, or
  - (ii) in Northern Ireland, the person has been prohibited from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the 1995 Order (interpretation of Part 2), under—
    - (aa) Article 3<sup>(46)</sup> of the 1995 Order (prohibition orders), or
    - (bb) any other legislation;
- (l) whether—

<sup>(41)</sup> 1986 c. 46; section 1(1) was amended by section 5(1) of the Insolvency Act 2000 (c. 39) and section 204(3) of the Enterprise Act 2002 (c. 40); section 1A(1) was inserted by section 6(2) of the Insolvency Act 2000 and amended by paragraph 3 of Schedule 7 to the Small Business, Enterprise and Employment Act 2015 (c. 26)

<sup>(42)</sup> S.I. 2002/3150 (N.I. 4); Article 3(1) was amended by S.I. 2005/1454 (N.I. 9); Article 4(1) was amended by paragraph 9(4)(a) of Schedule 8 to the Small Business, Enterprise and Employment Act 2015 (c. 26)

<sup>(43)</sup> “The registrar of companies” is defined in section 1060(3) of the Companies Act 2006

<sup>(44)</sup> 1995 c. 26

<sup>(45)</sup> Section 3 was substituted by section 33 of the Pensions Act 2004 (c. 35)

<sup>(46)</sup> Article 3 was substituted by Article 29 of the Pensions (Northern Ireland) Order 2005 and amended by paragraph 3 of Schedule 1 to the Pensions Regulator Tribunal (Transfer of Functions) Act (Northern Ireland) 2010 (c. 4 (N.I.))

- (i) in Great Britain, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of section 124(1) of the Pensions Act 1995, under—
    - (aa) section 29(47) of the Pensions Act 1995 (persons disqualified from being trustees), or
    - (bb) any other legislation, or
  - (ii) in Northern Ireland, the person has been disqualified from being a trustee of any trust, including any trust scheme within the meaning of Article 121(1) of the 1995 Order, under—
    - (aa) Article 29(48) of the 1995 Order (persons disqualified for being trustees), or
    - (bb) any other legislation.
3. For the purposes of section 62(3)(a) of the 2021 Act, the Regulator must take into account—
- (a) the knowledge and skills gained from a person’s significant experience as a trustee, in assessing whether the person is fit and proper to act in that capacity;
  - (b) whether a person has successfully completed such relevant training as may be set out in a Code, in assessing whether the person is fit and proper to act in the capacity of a trustee of the scheme;

## SCHEDULE 2

Regulations 9, 10 and 11

### Scheme design requirement

## PART 1

### Matters that the Regulator must take into account

1. The Regulator must take into account the following matters in deciding whether it is satisfied that the design of a collective money purchase scheme is sound—
- (a) the information or documents mentioned in regulation 10(3) that are provided to the Regulator in accordance with section 64(6) of the 2021 Act (viability report);
  - (b) whether the Regulator is satisfied that the scheme is a collective money purchase scheme within the meaning of section 52(2) of the 2021 Act (collective money purchase benefits and schemes);
  - (c) whether the Regulator is satisfied that 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;
  - (d) whether the Regulator is satisfied that the conclusions reached by—
    - (i) the trustees as provided for in paragraph 8(1)(b);

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(47) Section 29 was amended by paragraph 45 of Schedule 12, and Schedule 13, to the Pensions Act 2004, section 106(2) of and paragraph 8 of Schedule 16 to the Tribunals Courts and Enforcement Act 2007 (c. 15), paragraph 6 of the Schedule to S.I. 2004/1941, paragraph 5 of Schedule 2 to S.I. 2006/1722, paragraph 155(4) of Schedule 1 to S.I. 2009/1941, paragraph 34(3) of Schedule 2 to S.I. 2012/2404 and paragraph 11(3) of Schedule 1 to S.I. 2016/481

(48) Article 29 was amended by paragraph 11 of Schedule 3 to the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)), paragraph 39 of Schedule 10 and Schedule 11 to the Pensions (Northern Ireland) Order 2005, paragraph 5 of the Schedule to S.R. 2008 No. 94 and paragraph 16(2)(c) of the Schedule to S.R. 2016 No. 108

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- (ii) the scheme actuary on the matters in regulation 11(2), as set out in the viability report and viability certificate, are justified;
- (e) whether the Regulator considers that—
  - (i) the contents of the viability report;
  - (ii) the contents of the viability certificate, and
  - (iii) the information provided to the Regulator concerning the testing or modelling used for the purposes of determining whether the design of the scheme is sound,are sufficiently comprehensive in order to enable the Regulator to decide whether it is satisfied that the design of the scheme is sound.

## PART 2

### Viability report

#### *Preliminary*

2. A viability report must include the information set out in paragraphs 3 to 9.

#### *General*

3. The date which has been chosen in respect of the viability report in accordance with regulation 10(5).
4. The name and contact details of the person to be contacted in respect of the viability report.
5. A statement, signed by the trustees confirming that—
  - (a) in their opinion, the design of the scheme is sound;
  - (b) the viability report has been approved by the trustees.
6. A statement, signed by the scheme actuary, confirming that, to the extent that the viability report refers to actuarial matters, the scheme actuary is satisfied that those references accurately reflect those matters in respect of the scheme.
7. The name of the scheme in respect of which the viability report has been prepared.

#### *Information about the design of the scheme*

- 8.—(1) An explanation of—
  - (a) the design of the scheme;
  - (b) the reasons why the trustees consider the design of the scheme to be sound and the evidence on which this consideration is based.
- (2) The evidence referred to in sub-paragraph (1)(b) must include the documents prepared by—
  - (a) the scheme actuary for the purposes of regulation 10(3)(b);
  - (b) the trustees for the purposes of regulation 10(3)(c).
9. The explanation required by paragraph 8(1) must include—
  - (a) an explanation of how the scheme satisfies the definition of a collective money purchase scheme under section 52(2) of the 2021 Act (collective money purchase benefits and schemes), including—

- (i) an explanation of how the requirements of section 54 of the 2021 Act (qualifying schemes) are met in respect of the scheme, and
- (ii) where the scheme is a section of a qualifying scheme, an explanation of how the requirements of section 54 of the 2021 Act are met in respect of that section;
- (b) an explanation as to why the trustees are satisfied that the rules of the scheme meet—
  - (i) the requirements of section 69 of the 2021 Act (calculation of benefits);
  - (ii) the requirements of regulation 17.

## PART 3

### Viability certificate

- 10. The viability certificate must contain the information set out in paragraphs 11 to 14.
- 11. The date which has been agreed in respect of the viability certificate in accordance with regulation 11(11).
- 12. The name and contact details of the scheme actuary.
- 13. The name of the scheme in respect of which the viability certificate is being obtained.
- 14. A statement, signed by the scheme actuary, confirming that—
  - (a) in the scheme actuary’s opinion, the design of the scheme is sound;
  - (b) when providing the viability certificate, the scheme actuary has had regard to the matters specified in regulation 11(2), as applicable.

## SCHEDULE 3

Regulations 6 and 12

### Financial sustainability requirement

## PART 1

### Information required on application for authorisation

- 1. The other information to be included in an application, in relation to whether the scheme is financially sustainable, is—
  - (a) in relation to whether the scheme has sufficient financial resources to meet the costs mentioned in section 65(2)(a) of the 2021 Act (financial sustainability requirement)—
    - (i) an estimate of the cost of setting up the scheme;
    - (ii) an estimate of the cost of running the scheme, in accordance with any requirements set out in a Code;
    - (iii) details of the scheme’s sources of income including estimates of the amount of income from each source, in accordance with any requirements set out in a Code;
    - (iv) the trustees’ strategy for meeting any shortfall between the scheme’s income and the costs mentioned in section 65(2)(a) of the 2021 Act;
    - (v) an explanation of how any estimates provided have been calculated and of the assumptions used in reaching those estimates;

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- (vi) an explanation of the circumstances in which, and the extent to which, the scheme's actual costs and income may vary from the estimates provided and any measures in place to address such variations;
- (vii) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 65(2)(a) of the 2021 Act, the following financial information in respect of each such employer to the extent it is available—
  - (aa) a cash flow statement for the previous 12 months, including any undrawn overdraft facility or revolving credit facility;
  - (bb) forecast and actual profit and loss for the previous 12 months;
  - (cc) budget for the year to date and any variation from that budget;
  - (dd) cash resources;
  - (ee) cash flow forecast for each of the following 4 quarters;
  - (ff) operating costs;
  - (gg) inter-company loans and other forms of funding;
  - (hh) the employer's most recent accounts;
  - (ii) such further information, concerning the financial position of the employer, as is set out in a Code;
- (viii) details of any financing arrangements entered into by the trustees in respect of the costs mentioned in section 65(2)(a) of the 2021 Act;
- (ix) details of the security and enforceability of any loans or other funding commitments provided to the trustees in respect of the scheme, including the reasons why the trustees consider these commitments to be secure and enforceable;
- (x) where the scheme has any arrangements with service providers that meet the description in paragraph 2(i), details of the matters set out in that paragraph in respect of each arrangement;
- (xi) details of any insurance held in respect of the scheme, in respect of the costs mentioned in section 65(2)(a) of the 2021 Act, including details of the matters set out in paragraph 2(j);
- (b) in relation to whether the scheme has sufficient financial resources to meet the costs mentioned in section 65(2)(b) of the 2021 Act—
  - (i) an estimate of the costs mentioned in section 65(2)(b)(i) of the 2021 Act;
  - (ii) an estimate of the costs mentioned in section 65(2)(b)(ii) of the 2021 Act;
  - (iii) the trustees' strategy for meeting the costs mentioned in section 65(2)(b) of the 2021 Act;
  - (iv) the amount and classes of assets held by, or that will be available to, the trustees to meet those costs;
  - (v) an explanation of how any estimates provided have been calculated and of the assumptions used in reaching those estimates;
  - (vi) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 65(2)(b) of the 2021 Act, the following financial information in respect of each employer to the extent it is available—
    - (aa) a cash flow statement for the previous 12 months, including any undrawn overdraft facility or revolving credit facility;
    - (bb) forecast and actual profit and loss for the previous 12 months;



- (cc) budget for the year to date and any variation from that budget;
- (dd) cash resources;
- (ee) cash flow forecast for each of the following 4 quarters;
- (ff) operating costs;
- (gg) inter-company loans and other forms of funding;
- (hh) the employer's most recent accounts;
- (ii) such further information, concerning the financial position of the employer, as is set out in a Code;
- (vii) details of the security and enforceability of any loans or other funding commitments provided to the trustees in respect of the scheme, including the reasons why the trustees consider these commitments to be secure and enforceable;
- (viii) details of any insurance held in respect of the scheme in respect of the costs mentioned in section 65(2)(b) of the 2021 Act, including details of the matters set out in paragraph 3(i);
- (ix) details of any compensation for which members are eligible in the event of a scheme failure, including details of the matters set out in paragraph 3(k) of this Schedule.

## PART 2

### Matters which the Regulator must take into account

2. The Regulator must take account of the following matters in deciding whether it is satisfied that a collective money purchase scheme has sufficient financial resources to meet the costs mentioned in section 65(2)(a) of the 2021 Act (financial sustainability requirement)—

- (a) the scheme's sources of income, including the estimated amount of income from each source;
- (b) the estimated cost of setting up the scheme;
- (c) the estimated cost of running the scheme;
- (d) the trustees' strategy for meeting any shortfall between the scheme's income and the costs mentioned in section 65(2)(a) of the 2021 Act;
- (e) the robustness of any estimates provided to the Regulator in relation to the costs mentioned in section 65(2)(a) of the 2021 Act, and the robustness of the strategy mentioned in subparagraph (d);
- (f) where one or more employers in relation to the scheme has agreed to fund any of the costs mentioned in section 65(2)(a) of the 2021 Act, the financial position of each of those employers that the Regulator considers relevant;
- (g) the scheme financing arrangements entered into by the trustees in respect of the costs mentioned in section 65(2)(a) of the 2021 Act;
- (h) the security and enforceability of loans and other funding commitments provided to the trustees in respect of the scheme;
- (i) where the scheme has an arrangement with a service provider under which the service provider accepts the risk that its costs will exceed any fee paid to it, the provisions made to secure this service and any limitation on the service provider's liability for those costs;
- (j) any insurance held in respect of the costs mentioned in section 65(2)(a) of the 2021 Act, including details of—

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- (i) the insurance provider;
- (ii) the policy holder;
- (iii) the beneficiary of the policy;
- (iv) any limitations on the insurer's liability.

3. The Regulator must take account of the following matters in deciding whether it is satisfied that a collective money purchase scheme has sufficient financial resources to meet the costs mentioned in section 65(2)(b) of the 2021 Act—

- (a) the most recent estimates of the costs mentioned in section 65(2)(b) of the 2021 Act provided in respect of the scheme;
- (b) the extent and manner in which the trustees have made provision to meet those costs;
- (c) the amount and classes of assets held by, or available to, the trustees to meet those costs;
- (d) the robustness of any estimates provided to the Regulator in relation to the costs mentioned in section 65(2)(b) of the 2021 Act, and the robustness of the strategy for meeting those costs;
- (e) where one or more employers in relation to the scheme has agreed to fund the costs mentioned in section 65(2)(b) of the 2021 Act, the financial position of each of those employers that the Regulator considers relevant;
- (f) the security and enforceability of loans and other funding commitments provided to the trustees in respect of the scheme;
- (g) whether the scheme rules impose liability on any person for the following costs and, if so the identity of those liable—
  - (i) the costs of winding up the scheme;
  - (ii) the costs of converting the scheme into a closed scheme;
- (h) the alignment between the actions set out in the scheme's continuity strategy and the estimate in the strategy of the costs of carrying out those actions;
- (i) any insurance held in respect of the costs mentioned in section 65(2)(b) of the 2021 Act, including details of—
  - (i) the insurance provider;
  - (ii) the policy holder;
  - (iii) the beneficiary of the policy;
  - (iv) any limitations on the insurer's liability;
- (j) the quality of the scheme's records and data;
- (k) whether the members are eligible for compensation in the event of a scheme failure and, if so, details of—
  - (i) the compensation provider;
  - (ii) the basis on which the compensation is payable;
  - (iii) any limits on the amount of compensation payable;
- (l) the scheme's most recent continuity strategy.

## PART 3

### Requirements to be met by the collective money purchase scheme

4. A collective money purchase scheme must meet the following requirements relating to its financing—
- (a) any assets held by or available to the trustees to meet the costs mentioned in section 65(2) of the 2021 Act (financial sustainability requirement) must be—
    - (i) of the classes and in the proportions set out in a Code;
    - (ii) valued in accordance with any discounted rates set out in a Code;
    - (iii) available to be used when the relevant costs fall due;
  - (b) the scheme’s trustees must have first call on the assets referred to in sub-paragraph (a);
  - (c) any funding commitment made to the scheme in respect of the costs mentioned in section 65(2) of the 2021 Act must be given in writing and duly executed by the party making the commitment.

## SCHEDULE 4

Regulations 6 and 13

### Communication requirement

#### *Interpretation*

1. In this Schedule—

“scheme communication” means a notification, notice, document, statement or other communication relating to the scheme which is provided, or made available, to a relevant person by or on behalf of the scheme;

“relevant functions” are—

- (a) the development, production, provision or review of scheme communications;
- (b) record-keeping in respect of scheme communications;
- (c) quality assurance activities in respect of scheme communications, and
- (d) any other functions, in respect of scheme communications, set out in a Code.

#### *Preliminary*

2. The matters that the Regulator must take into account in deciding, for the purposes of section 66 of the 2021 Act (communication requirement), whether it is satisfied that a collective money purchase scheme has adequate systems and processes for communicating with members and others, are set out in paragraphs 3 to 6.

#### *Functionality, quality and maintenance of IT systems*

3. Whether the IT systems used for the purposes of carrying out relevant functions—
- (a) have the necessary capacity and capability to enable relevant functions to be carried out by or on behalf of the scheme in accordance with—
    - (i) any legal requirement in relation to scheme communications, and
    - (ii) the scheme’s systems and processes concerning scheme communications;

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- (b) are monitored to ensure that they continue to have the necessary capacity and capability;
- (c) are capable of being upgraded or updated to reflect changes in legal requirements relating to scheme communications;
- (d) have a back-up system which allows data concerning scheme communications to be recovered if the main system fails;
- (e) have restricted physical and electronic access, with firewalls and other appropriate protection against viruses and other threats;
- (f) are maintained at regular intervals, either automatically or by a person with the appropriate skills and experience;
- (g) are backed up and updated regularly, including the maintenance of firewalls and other preventative systems.

#### *Resource planning*

4. Whether there are systems and processes for ensuring that there are sufficient human resources, with the relevant skills, qualifications and capacity necessary to enable relevant functions to be carried out by or on behalf of the scheme in accordance with—
- (a) any legal requirement in relation to scheme communications, and
  - (b) the scheme's systems and processes concerning scheme communications.

#### *Quality assurance*

5. Whether there are systems and processes—
- (a) for assessing and improving the effectiveness of scheme communications and for updating scheme communications to take into account these assessments;
  - (b) for ensuring that the information contained in scheme communications is accurate and is not misleading;
  - (c) for ensuring that any legal requirement in relation to scheme communications is complied with;
  - (d) for ensuring that scheme communications are provided or made available in a timely manner;
  - (e) for scheme communications to be reviewed by such persons as the trustees consider appropriate before being provided or made available and for scheme communications to be kept under review as appropriate.

#### *Member engagement*

6. Whether there are systems and processes—
- (a) for gathering feedback from members concerning scheme communications;
  - (b) for evaluating feedback from members concerning scheme communications and sharing this feedback with trustees;
  - (c) for taking into account feedback from members concerning scheme communications in the design of scheme communications;
  - (d) for reporting to the trustees, and members, as to how feedback from members has been taken into account in the design of scheme communications.

## SCHEDULE 5

Regulations 6 and 14

### Systems and processes requirement

#### *Preliminary*

1. The matters that the Regulator must take into account in deciding, for the purposes of section 67 of the 2021 Act (systems and processes requirements), whether it is satisfied that the systems and processes used in running a collective money purchase scheme are sufficient to ensure that the scheme is run effectively are set out in paragraphs 2 to 14.

#### *Features and functionality of IT systems*

2. Whether the IT systems have the capacity and capability—
- (a) to process financial transactions securely, accurately and by automated means, including the core transactions described in regulation 24(2) of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997<sup>(49)</sup> (requirements for processing financial transactions);
  - (b) to make and receive electronic payments;
  - (c) to accept contributions from multiple sources;
  - (d) to exchange data with other IT systems, including those used by employers and service providers;
  - (e) to process information securely, accurately and by automated means for the purposes of calculating the rate or amount of benefits to be provided under the scheme, in accordance with the scheme rules;
  - (f) to reconcile data on transactions and produce reports so that those activities can be monitored and transaction errors rectified promptly;
  - (g) to identify and categorise transactions and payments for authorisation and countersigning at an appropriate level of authority;
  - (h) to be updated to reflect changes in the legal requirements affecting transactions, payments and records, including changes in tax thresholds, the annual allowance and the lifetime allowance.

#### *Standards required of IT systems*

3. Whether the IT systems—
- (a) are capable of being upgraded to reflect changes in required transactions and capacity;
  - (b) have restricted physical and electronic access, with firewalls and other appropriate protection against viruses and other threats;
  - (c) have a back-up system which allows data to be recovered if the main system fails.

#### *Maintenance of IT systems*

4. Whether the IT systems—
- (a) are maintained at regular intervals, either automatically or by a person with the appropriate skills and experience;

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<sup>(49)</sup> S.R. 1997 No. 94; regulation 24 was added by regulation 18 of S.R. 2015 No. 309

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- (b) are backed up and updated regularly, including the maintenance of firewalls and other preventative systems;
- (c) are monitored to ensure that their capacity is sufficient for the size of the scheme.

*Member records*

5. Whether the scheme's systems and processes ensure that—
- (a) there is an accurate record on the relevant IT system of each member's details, including the member's pensionable service and pensionable salary and, on an annual basis, the amount that represents the member's share of the available assets of the scheme;
  - (b) any unpaid contributions by or in respect of active members can be explained to the Regulator and remedied;
  - (c) members' records are reviewed regularly for completeness and accuracy and updated promptly with changes of information;
  - (d) errors in member's records can be identified and addressed, and any financial impact of such errors on members can be rectified;
  - (e) for each financial year, records are maintained—
    - (i) in respect of each person receiving payment of a pension or other benefits under the scheme, including the amount of benefits received during the year;
    - (ii) in respect of each person receiving payment of a periodic income in accordance with paragraph 7 of Schedule 6, including the amount of income received during the year;
  - (f) for each financial year, there is an accurate record of the amount that represents the value of accrued rights to benefits under the scheme that has been transferred out of the scheme during the financial year.

*Trustees and others*

6. Whether there are systems and processes—
- (a) for the fair and transparent recruitment, appointment, resignation and removal of trustees;
  - (b) for the fair and transparent recruitment, appointment, resignation and removal of the scheme actuary;
  - (c) for determining and recording that persons involved in the scheme in the capacities mentioned in section 62(2) of the 2021 Act (fit and proper persons requirement) are, and remain, fit and proper;
  - (d) for monitoring and recording trustees' learning and development, and for ensuring that it is appropriate for the scheme's activities;
  - (e) in relation to meetings of trustees, including—
    - (i) the intervals at which meetings of trustees are to take place;
    - (ii) the number of trustees required to authorise decisions on risk management, resource planning and investments;
    - (iii) the process for managing the scheme's business between meetings of the trustees;
  - (f) for recording, maintaining and managing all documents relating to the trustees in an accessible medium;
  - (g) for managing the scheme's business if one or more trustees are absent.

*Contracts and service providers*

7. Whether there are systems and processes—
  - (a) for establishing that service providers have the necessary qualifications, experience or approval, as applicable;
  - (b) for establishing that service providers have the capability to provide their services in respect of the scheme—
    - (i) in accordance with any scheme rules that relate to those services;
    - (ii) in accordance with any statutory requirement in relation to those services to which the trustees are subject in respect of the scheme, to the extent that the services are provided on behalf of the trustees;
  - (c) for ensuring that trustees are appropriately engaged in overseeing service providers and in decisions concerning them, including their appointment;
  - (d) for informing the trustees of—
    - (i) any failure by service providers to deliver services;
    - (ii) any actions or omissions by service providers which may prejudice the effective running of the scheme;
  - (e) for recording, maintaining and managing all documents relating to service providers in an accessible medium.

*Governance*

8. Whether there are systems and processes—
  - (a) for the identification of roles and responsibilities in respect of the governance of the scheme; for identifying, managing and monitoring risks in respect of the soundness of the design of the scheme ;for the appointment of persons with sufficient skills, knowledge and experience to carry out those roles and responsibilities;
  - (b) for setting clear objectives concerning the governance of the scheme and for monitoring whether those objectives are being met within the relevant timescales;
  - (c) for documenting and reporting matters relating to the governance of the scheme;
  - (d) for identifying and addressing any failures in the governance of the scheme.

*Risk management*

9. Whether there are systems and processes—
  - (a) for identifying, managing and monitoring operational, financial, regulatory and compliance risks;
  - (b) for identifying, managing and monitoring risks in respect of the soundness of the design of the scheme;
  - (c) for recording and documenting risks in an appropriate and durable format;
  - (d) for ensuring that risks are managed in a timely manner by persons with the appropriate skills, knowledge and resources;
  - (e) for informing the trustees about risks that have arisen and the steps being taken to manage them.

*Security*

10. Whether there are systems and processes—
- (a) for preventing unauthorised access to sensitive records and infrastructure, including those containing member information, financial details or investment information;
  - (b) for monitoring and recording electronic and physical access to sensitive records and infrastructure;
  - (c) for ensuring the secure transfer of physical and electronic data and the secure conduct of transactions.

*Resource planning*

11. Whether there are systems and processes for ensuring that there are sufficient human resources with the skills, qualifications and capacity necessary to comply with the requirements of Part 2 of the 2021 Act (collective money purchase benefits: Northern Ireland) and, in particular—
- (a) to run and maintain the scheme’s systems and processes;
  - (b) to provide for the effective running of the scheme, and
  - (c) to send appropriate and timely notifications, information and documents to the Regulator, including information about the scheme’s systems and processes.

*Investments*

12. Whether there are systems and processes—
- (a) for investing contributions in a timely manner in accordance with the scheme’s investment policy;
  - (b) for recording investment decisions;
  - (c) for managing the scheme’s interaction with investment managers, and recording key decisions;
  - (d) for recording, managing and reviewing the risks associated with investment decisions, and
  - (e) for informing trustees about questions, decisions and risks relating to investments.

*Valuation and benefit adjustment*

13. Whether there are systems and processes—
- (a) for ensuring that the rules of the scheme meet the requirements of section 69 of the 2021 Act (calculation of benefits) and regulation 17;
  - (b) for ensuring that the trustees comply with section 70(1) of the 2021 Act (advice of scheme actuary);
  - (c) for establishing that the scheme actuary has complied with regulation 18;
  - (d) for ensuring that the trustees obtain actuarial valuations in accordance with section 71 of the 2021 Act (actuarial valuations) and regulation 19;
  - (e) for establishing that the scheme actuary has complied with section 72 of the 2021 Act (certificate that actuarial valuation prepared in accordance with scheme rules);
  - (f) for complying with the requirements of section 73 of the 2021 Act (benefits adjustments), where applicable;
  - (g) for responding to a direction given under section 74(2) of the 2021 Act (powers of the Pensions Regulator).



*Member engagement*

14. Whether there are systems and processes—
- (a) for facilitating members' engagement with the scheme;
  - (b) for bringing members' views to the attention of the trustees;
  - (c) for directing members' complaints to the correct channels for resolution.

SCHEDULE 6

Regulation 29

Continuity option 1: transfer out and winding up

*Definitions*

1.—(1) In this Schedule—

“arrangement” has the meaning given in section 152 of the Finance Act 2004<sup>(50)</sup>;

“beneficiary” in relation to the collective money purchase scheme means—

- (a) a member of the scheme, or
- (b) a person who has survived a member of the scheme and has an entitlement to benefits, or a right to future benefits, under the scheme rules in respect of the member;

“default arrangement” has the meaning given in regulation 3 of the Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015<sup>(51)</sup>;

“default discharge option” means the way the trustees propose to discharge the scheme's liability to a beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme, unless the beneficiary specifies otherwise in accordance with paragraph 14;

“discharge time” in relation to a beneficiary under the scheme means the time that the scheme's liability to the beneficiary in respect of the value of the beneficiary's accrued rights to benefits under the scheme is discharged;

“final quantification” means the final quantification carried out immediately prior to the discharge time, in accordance with paragraph 5(1)(f);

“income withdrawal” has the meaning given in paragraph 7<sup>(52)</sup> of Schedule 28 to the Finance Act 2004;

“initial quantification” means the initial quantification carried out in accordance with paragraph 5(1)(c);

“member's flexi-access drawdown fund” has the meaning given in paragraph 8A<sup>(53)</sup> of Schedule 28 to the Finance Act 2004;

“pensioner beneficiary”, in relation to the collective money purchase scheme, means a person who is entitled to the present payment of pension or other benefits under the scheme;

“penultimate quantification” means the quantification carried out not less than one month before the proposed discharge time, in accordance with paragraph 5(1)(e);

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<sup>(50)</sup> 2004 c. 12; section 152 was amended by paragraph 2 of Schedule 5 to the Finance Act 2021 (c. 26)

<sup>(51)</sup> S.R. 2015 No. 309

<sup>(52)</sup> Paragraph 7 was substituted by paragraph 5 of Schedule 16 to the Finance Act 2011 (c. 11) and amended by paragraph 19 of Schedule 1 to the Taxation of Pensions Act 2014 (c. 30)

<sup>(53)</sup> Paragraph 8A was inserted by paragraph 3(1) of Schedule 28 to the Taxation of Pensions Act 2014

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“periodic income” means a payment made by a scheme under paragraph 7, which is not the payment of a benefit (including pension) under the scheme;

“quantification” means the quantification of the amount that represents the value of each beneficiary’s accrued rights to benefits under the scheme;

“winding-up commencement time” means the time, determined in accordance with these Regulations and the scheme rules, that winding-up is taken to begin for the purposes of continuity option 1;

“winding-up period” means the period beginning with the winding-up commencement time and ending when the winding-up of the scheme is completed;

“winding-up quantification” means the quantification carried out after the Regulator notifies the trustees that the implementation strategy is approved, in accordance with paragraph 5(1)(d).

(2) Notices given under this Schedule must be sent—

- (a) in writing, by post or email;
- (b) to the addressee’s last known address, and
- (c) in accordance with any further requirements set out in a Code.

(3) For the purposes of sub-paragraph (2), a person’s email address is—

- (a) any email address provided for the time being by that person as an address for contacting that person, or
- (b) if no such address has been provided, any email address by means of which the sender reasonably believes that the notice will come to the attention of that person or (where that person is a body corporate) any director or other officer of that body corporate.

(4) A notice under this Schedule sent to a person by email is taken to have been received by that person 48 hours after it is sent.

#### *Alternative ways of discharging the scheme’s liability*

2.—(1) For the purposes of section 87(2)(b) of the 2021 Act (continuity option 1: discharge of liabilities and winding up), the ways of discharging a collective money purchase scheme’s liability to each beneficiary in respect of the beneficiary’s accrued rights to benefits under the scheme (the “transferring scheme”) are—

- (a) transferring the value of those rights to an occupational pension scheme (the “receiving scheme”) where an employer in relation to the transferring scheme is or is connected with a controlling employer or a principal employer of the receiving scheme;
- (b) transferring the value of those rights to a member’s flexi-access drawdown fund in respect of an arrangement for the purposes of entitlement by the beneficiary to income withdrawal which is an authorised member payment for the purposes of Part 4 of the Finance Act 2004 (pension schemes etc.).

(2) For the purposes of section 87(2)(c) of the 2021 Act, the way of discharging a collective money purchase scheme’s liability to each beneficiary in respect of the beneficiary’s accrued rights to benefits under the scheme is securing the payment of benefits by the purchase of one or more policies from one or more insurers authorised by the Financial Conduct Authority for carrying on long-term insurance business in the United Kingdom.

(3) In this paragraph—

“controlling employer” in relation to a scheme is the employer that has the power to act on behalf of all employers in the scheme in relation to the scheme rules

“principal employer” in relation to a scheme is the principal employer for the purposes of the scheme in accordance with the scheme rules.

#### *Requirements of rules of scheme*

3.—(1) The rules of a collective money purchase scheme must make provision about how continuity option 1 is to be given effect in the event that the trustees are required or decide to pursue continuity option 1.

(2) The rules must include the following—

- (a) the time when the winding-up is to be taken to begin for the purposes of continuity option 1, taking account of the requirements of paragraph 4;
- (b) how the value of the available assets of the scheme is to be determined;
- (c) how the amount that represents the value of each beneficiary’s accrued rights to benefits under the scheme is to be quantified for the purposes of the initial quantification, the winding-up quantification and any subsequent quantification (including the penultimate quantification) carried out prior to the final quantification;
- (d) how the amount that represents the value of each beneficiary’s accrued rights to benefits under the scheme is to be quantified for the purposes of the final quantification;
- (e) how the amount or rate of periodic income payable during the winding-up period is to be calculated and adjusted from time to time.

(3) Rules for determining how the amount that represents the value of each beneficiary’s accrued rights to benefits under the scheme is to be quantified must apply to all beneficiaries of the scheme without variation.

#### *Winding-up commencement time*

4.—(1) Where the trustees of a collective money purchase scheme are required to pursue continuity option 1 because a triggering event which is an item 1 or 2 triggering event has occurred in relation to the scheme, the winding-up commencement time must be on the date the decision to withdraw authorisation becomes final for the purposes of Part 2 of the 2021 Act (collective money purchase benefits: Northern Ireland).

(2) Where the trustees of a collective money purchase scheme are required to pursue continuity option 1 because a triggering event which is an item 3 triggering event has occurred in relation to the scheme, the winding-up commencement time must be on the date on which the Regulator gives a notification under section 58(3) of the 2021 Act (authorisation of collective money purchase schemes).

(3) Subject to sub-paragraphs (1) and (2), the winding-up commencement time shall be determined in accordance with paragraphs (4) to (7)(54) of Article 121 of the 1995 Order (interpretation of Part 2).

#### *Quantification of the value of beneficiaries’ accrued rights to benefits*

5.—(1) The quantification of the value of each beneficiary’s accrued rights to benefits under the scheme must be carried out—

- (a) in accordance with these Regulations and with the scheme rules;

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(54) Paragraphs (4) to (7) were inserted by section 45(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 and amended by paragraph 63(3) and (4) of Schedule 10 to the Pensions (Northern Ireland) Order 2005

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- (b) on an actuarial basis;
  - (c) as an initial estimate before the end of 28 days beginning with the date of the winding-up commencement time;
  - (d) as a subsequent estimate within the period of 6 months beginning with the date on which the Regulator notifies the trustees that the implementation strategy is approved;
  - (e) as a final estimate not less than one month before the proposed discharge time, and
  - (f) as a final figure immediately prior to the discharge time in relation to the beneficiary.
- (2) The quantification must be carried out by reference to the realisable value of the available assets of the scheme.
- (3) The amount that represents the value of a beneficiary's accrued rights to benefits under the scheme for the purposes of the final quantification must be reduced to take account of any periodic income received by that beneficiary in accordance with paragraph 7.

#### *Winding-up period*

6.—(1) Subject to sub-paragraph (5), no new members may be admitted to the scheme during the winding-up period.

(2) No further contributions by or on behalf or in respect of members of the scheme may be paid towards the scheme (other than those due to be paid before the beginning of the winding-up period) during the winding-up period.

(3) No benefits may accrue to or in respect of members of the scheme during the winding-up period.

(4) Subject to sub-paragraph (6), no pension or other benefits may be paid by the scheme to or in respect of beneficiaries during the winding-up period.

(5) Where a person is entitled to a pension credit derived from another person's shareable rights under the scheme nothing in this Schedule prevents the trustees of the scheme discharging their liability in respect of the credit under Chapter 1 of Part 5 of the 1999 Order (sharing of rights under pension arrangements) by conferring appropriate rights under the scheme on that person.

(6) Nothing in this Schedule prevents the exercise of any right or power conferred by Chapter 2 of Part 4ZA(55) of the 1993 Act (early leavers: cash transfer sums and contribution refunds) or the discharge of any duty imposed by that Chapter.

(7) The requirements mentioned in sub-paragraph (8) cease to apply during the winding-up period and the trustees are discharged from any liability to carry out these requirements in respect of the winding-up period.

(8) The requirements are—

- (a) obtaining actuarial valuations in accordance with section 71 of the 2021 Act (actuarial valuations);
- (b) determining the rate or amount of benefits under the scheme, under scheme rules in accordance with section 69 of the 2021 Act (calculation of benefits), and
- (c) providing qualifying benefits including the payment of a pension or other benefits under the scheme, as provided for in section 54 of the 2021 Act (qualifying schemes).

(9) In sub-paragraph (5)—

“appropriate rights” has the same meaning as in paragraph 5 of Schedule 5 to the 1999 Order (pension credits: mode of discharge);

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(55) See paragraph 50 of Schedule 4 to the Pension Schemes Act 2015

“shareable rights” has the meaning given in Article 24(2) of the 1999 Order (scope of mechanism).

#### *Periodic income*

7.—(1) Where a person was a pensioner beneficiary of the scheme immediately prior to the beginning of the winding-up period, or would have become a pensioner beneficiary of the scheme during the winding-up period but for the provisions of this Schedule, the trustees must pay that person a periodic income under and in accordance with this paragraph.

(2) A payment of periodic income by a scheme under this paragraph is not a payment of benefits (including pension) under the scheme.

(3) The periodic income is payable to a person who was a pensioner beneficiary of the scheme immediately prior to the beginning of the winding-up period during the period beginning with the date of the winding-up commencement time and continuing until the earlier of the date of the discharge time in relation to that person or the date that person would otherwise have ceased to be a pensioner beneficiary.

(4) The periodic income is payable to a person who would have become a pensioner beneficiary of the scheme during the winding-up period but for the provisions of this Schedule during the period beginning with the date that person would have become a pensioner beneficiary and continuing until the earlier of the date of the discharge time in relation to that person or the date that person would otherwise have ceased to be a pensioner beneficiary.

(5) In the case of a person who was a pensioner beneficiary immediately prior to the beginning of the winding-up period, payments of periodic income before the initial quantification has been carried out must be made—

- (a) on the same date that a payment of pension would have been due to be made to that person had the winding-up of the scheme not commenced, and
- (b) at the same rate or amount as the last payment of pension made to that person before the beginning of the winding-up period.

(6) In the case of a person who would have become a pensioner beneficiary of the scheme during the winding-up period but for the provisions of this Schedule, payments of periodic income before the initial quantification has been carried out must—

- (a) be made on the same date that a payment of pension would have been due to be made to that person had the winding-up of the scheme not commenced, and
- (b) be calculated by reference to the last actuarial valuation carried out before the beginning of the winding-up period.

(7) After the initial quantification has been carried out, the amount or rate of the periodic income payable to a person must—

- (a) be calculated by reference to the amount that represents the value of the person’s accrued rights to benefits under the scheme;
- (b) until the winding-up quantification has been carried out, be calculated and paid on the basis of the initial estimate;
- (c) after the winding-up quantification has been carried out, be calculated and paid on the basis of the latest of the winding-up quantification or any subsequent quantification;
- (d) be adjusted from time to time to take account of any subsequent quantification carried out up to and including the penultimate quantification.

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*Information about periodic income*

8.—(1) The information mentioned in sub-paragraph (2) must be given in accordance with the provisions of this paragraph to each person who was a pensioner beneficiary of the scheme immediately prior to the beginning of the winding-up period and to each person who would have become a pensioner beneficiary of the scheme during the winding-up period but for the provisions of this Schedule.

(2) The information is—

- (a) that during the winding-up period pensions and other benefits cease to be payable under the scheme and instead the scheme must make payments of periodic income to persons who were and to persons who would have become pensioner beneficiaries;
- (b) when payment of the periodic income to the person will commence or, if a payment of periodic income has already been made, when the payments commenced;
- (c) an explanation that payment of the periodic income from the scheme will cease at the earlier of the date of the discharge time in relation to the person or the date the person would otherwise have ceased to be a pensioner beneficiary;
- (d) details of when and how the periodic income is to be or is being paid;
- (e) the amount that the person's periodic income will be following the initial quantification, where this is known;
- (f) an explanation of how the amount of the periodic income is calculated;
- (g) that the amount may be adjusted during the winding-up period, and that the amount may reduce following an adjustment;
- (h) how and when notice of any adjustment will be given to the person;
- (i) that the value of the person's accrued rights to benefits under the scheme at the discharge time will be reduced to take account of the periodic income payments made to the person during the winding-up period.

(3) In the case of a person who was a pensioner beneficiary under the scheme immediately prior to the beginning of the winding-up period, the information must be given as soon as practical and in any event no more than one month after the date of the winding-up commencement time.

(4) In the case of a person who would have become a pensioner beneficiary under the scheme during the winding-up period but for the provisions of this Schedule, the information must be given as soon as practical and in any event no more than one month after the date the person would have become a pensioner beneficiary.

*Scheme to continue to be a CMPS during winding-up*

9.—(1) A “collective money purchase scheme” for the purposes of Part 2 of the 2021 Act (collective money purchase benefits: Northern Ireland)) includes a scheme or section of a scheme during the winding-up period where the scheme or section was a collective money purchase scheme immediately before the winding-up commencement time.

(2) Sub-paragraph (1) applies irrespective of the fact that in accordance with the requirements of this Schedule the scheme or section has, during the winding-up period—

- (a) ceased to make payments of benefits including payments of pension under the scheme, and
- (b) commenced payments of periodic income under paragraph 7(1).

*Trustees' notice to employers*

10.—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice to each employer and relevant former employer in relation to the scheme containing the information mentioned in sub-paragraph (2), in accordance with sub-paragraph (3).

(2) The information is—

- (a) details of the default discharge options identified in respect of beneficiaries and details of which option will apply to different descriptions of beneficiary including the name of any scheme which has been identified as a default discharge option for beneficiaries of the scheme;
- (b) that if a beneficiary does not specify an alternative in accordance with the requirements of this Schedule, the scheme's liability to the beneficiary will be discharged in accordance with the relevant default discharge option;
- (c) the beneficiary's rights under Chapter 2 of Part 4ZA of the 1993 Act (early leavers: cash transfer sums and contribution refunds);
- (d) the timetable for future communication with beneficiaries and employers;
- (e) that the notice is for information only.

(3) A notice under this paragraph must be sent before the end of 14 days beginning with—

- (a) the date on which the trustees identify the default discharge options, or
- (b) if later, the date on which the Regulator notifies the trustees that the implementation strategy is approved.

*Notification to receiving scheme*

11.—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice to the trustees or managers of any occupational pension scheme to which they propose to transfer the value of beneficiaries' accrued rights to benefits under the scheme under a default discharge option, the trustees or managers of which are able and willing to accept the transfer.

(2) The notice sent under this paragraph must state that the scheme has been selected as a default discharge option for the purposes of section 87 of the 2021 Act (continuity option 1: discharge of liabilities and winding up), for the transfer of the value of beneficiaries' accrued rights to benefits.

(3) The notice must be sent before the end of 14 days beginning with—

- (a) the date on which the trustees identify the scheme as a default discharge option for those purposes, or
- (b) if later, the date on which the Regulator notifies the trustees that the implementation strategy is approved.

*Trustees' first notice to beneficiaries in respect of discharge options*

12.—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice to each beneficiary of the scheme containing the information mentioned in sub-paragraph (2), in accordance with sub-paragraph (3).

(2) The information is—

- (a) details of the default discharge option for the beneficiary;
- (b) where the beneficiary can obtain information and guidance about the default discharge option;

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- (c) details of the beneficiary's right to choose whether the value of the beneficiary's accrued rights to benefits under the scheme are discharged by—
    - (i) the default discharge option proposed by the trustees, or
    - (ii) an alternative option specified by the beneficiary;
  - (d) details of the alternative options available to the beneficiary in accordance with paragraph 14(2);
  - (e) details of the beneficiary's rights under Chapter 2 of Part 4ZA of the 1993 Act (early leavers: cash transfer sums and contribution refunds);
  - (f) next steps and the timetable for future communications with the beneficiary.
- (3) A notice under this paragraph must be sent before the end of 14 days beginning with—
- (a) the date on which the trustees identify the default discharge option in relation to the beneficiary, or
  - (b) if later, the date on which the Regulator notifies the trustees that the implementation strategy is approved.

*Trustees' second notice to beneficiaries in respect of discharge options*

13.—(1) The trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a second notice to each beneficiary of the scheme containing the information mentioned in sub-paragraph (2), in accordance with sub-paragraph (3).

- (2) The information is—
- (a) the proposed discharge time;
  - (b) an estimate of the amount that represents the value of the beneficiary's accrued rights to benefits under the scheme based on the latest quantification in relation to the beneficiary;
  - (c) details of the default discharge option for the beneficiary including the nature of the arrangement it is proposed will be used to discharge the scheme's liability to the beneficiary and the name of the scheme or insurers the trustees propose to use;
  - (d) that the scheme's liability to the beneficiary in respect of the value of the beneficiary's accrued rights to benefits under the scheme will be discharged by the default discharge option unless the beneficiary specifies otherwise;
  - (e) where the beneficiary can obtain information and guidance about the default discharge option;
  - (f) details of the beneficiary's right to choose whether the value of the beneficiary's accrued rights to benefits under the scheme are discharged by—
    - (i) the default discharge option proposed by the trustees, or
    - (ii) an alternative option specified by the beneficiary;
  - (g) the requirement for a beneficiary who wishes to specify an alternative option to send the trustees of the collective money purchase scheme a notice in accordance with paragraph 14;
  - (h) details of the alternative options available to the beneficiary in accordance with paragraph 14(2);
  - (i) details of the beneficiary's rights under Chapter 2 of Part 4ZA of the 1993 Act (early leavers: cash transfer sums and contribution refunds);
  - (j) details of where the beneficiary can obtain information and guidance about the alternative options available to the beneficiary;



(k) next steps and the timetable for future communications with beneficiaries.

(3) A notice under this paragraph must be sent before the end of the period of one month beginning with the date on which the winding-up quantification was completed.

#### *Beneficiaries' response to trustees*

14.—(1) A beneficiary who has received notice from the trustees under paragraph 13 may give notice to the trustees requiring them to discharge the scheme's liability to the beneficiary in respect of the value of the beneficiary's accrued rights to benefits under the scheme—

(a) in the way set out in the default discharge option, or

(b) in an alternative way specified by the beneficiary.

(2) The alternative ways which may be specified by the beneficiary are—

(a) transferring the value of the beneficiaries' accrued rights to benefits under the scheme to an authorised collective money purchase scheme or an authorised Master Trust scheme;

(b) transferring the value of those rights to a personal pension scheme or an occupational pension scheme which is registered under Chapter 2 of Part 4 of the Finance Act 2004 (registration of pension schemes);

(c) transferring the value of those rights to a member's flexi-access drawdown fund in respect of an arrangement for the purposes of entitlement by the beneficiary to income withdrawal which is an authorised member payment for the purposes of Part 4 of the Finance Act 2004 (pension schemes etc);

(d) securing the payment of benefits by the purchase of one or more policies from one or more insurers authorised by the Financial Conduct Authority for carrying on long-term insurance business in the United Kingdom.

(3) Where the alternative way specified by the beneficiary is that the value of the beneficiary's accrued rights to benefits should be transferred to an alternative pension scheme, the scheme must be one which is able and willing to accept the transfer.

(4) A notice under this paragraph—

(a) must be sent before the end of the period of 3 months beginning with the day when the beneficiary received notice from the trustees under paragraph 13, and

(b) must contain sufficient information about the alternative way specified by the beneficiary, including bank account details, to enable the trustees to comply with paragraph 15.

#### *Notice of expected discharge time*

15.—(1) Not less than one month before the date of the expected discharge time, the trustees of a collective money purchase scheme that is pursuing continuity option 1 must send a notice of the expected discharge time to—

(a) each beneficiary of the scheme, and

(b) the employers in relation to the scheme.

#### *Trustees' powers*

16.—(1) This paragraph applies where the trustees of a collective money purchase scheme that is pursuing continuity option 1 do not receive a notice from a beneficiary in accordance with paragraph 14.

*Status: This is the original version (as it was originally made).*

(2) The trustees may discharge the scheme's liability to a beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme in the way set out in the default discharge option for the beneficiary without the consent of the beneficiary.

(3) Where the default discharge option for a beneficiary is the way referred to in paragraph 2(2) and the scheme discharges its liability to the beneficiary in this way without the beneficiary's consent, the beneficiary is deemed to have entered into an agreement with the insurer.

#### *Trustees' duty to transfer*

17.—(1) If the trustees of a collective money purchase scheme that is pursuing continuity option 1 receive notice from a beneficiary in accordance with paragraph 14, they must arrange for the scheme's liability to the beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme to be discharged as specified in the notice.

(2) If the trustees do not receive notice from a beneficiary in accordance with paragraph 14, they must arrange for the scheme's liability to the beneficiary in respect of the beneficiary's accrued rights to benefits under the scheme to be discharged in accordance with the default discharge option.

(3) When the trustees have arranged for the scheme's liability to a beneficiary to be discharged in accordance with sub-paragraph (1) or (2) they must notify the beneficiary of—

- (a) the value of the beneficiary's accrued rights to benefits under the scheme;
- (b) any reductions made in accordance with paragraph 5(3), and
- (c) who has or will become liable for the payment of benefits to the beneficiary when the scheme's liability to the beneficiary in respect of the value of the beneficiary's accrued rights to benefits under the scheme is discharged.

#### *Administration charges*

18.—(1) This paragraph applies to the trustees or managers of any occupational pension scheme (the "proposed receiving scheme") to which the trustees of a collective money purchase scheme that is pursuing continuity option 1 (the "transferring scheme") propose to transfer the value of beneficiaries' accrued rights to benefits under the scheme, under a default discharge option.

(2) The trustees of the proposed receiving scheme must provide to the Regulator, in accordance with this paragraph, a document setting out the level of administration charges that applies in relation to members of the proposed receiving scheme.

(3) The document must be provided before the end of 28 days beginning with the date on which the trustees of the proposed receiving scheme receive the notice under paragraph 11.

(4) The document must set out for each charge structure all levels of administration charges (including any discounted levels)—

- (a) for each arrangement, including a default arrangement, and any different levels in relation to any one arrangement;
- (b) for any additional charges, and the reason for imposing them;
- (c) for any third-party charges, and the reason for imposing them, and
- (d) for any other type of administration charge in the scheme, and the reason for imposing it.

(5) Where the proposed receiving scheme is a Master Trust scheme the charges must be set out as at the most recent date, not falling within a triggering event period in relation to the transferring scheme, on which the receiving scheme submitted a continuity strategy to the Regulator.

(6) In all other cases the charges must be set out as at the date the triggering event occurred in relation to the transferring scheme as a result of which continuity option 1 is being pursued.

- (7) The levels must be set out on an annualised basis.
- (8) Where there is a discounted level, the reason for charging the lower level must also be set out.
- (9) The document must include a statement explaining—
  - (a) how the scheme will be in compliance with section 96(2) of the 2021 Act (prohibition on increasing charges etc during triggering event period);
  - (b) whether the scheme is to be liable for the costs mentioned in section 96(4) of the 2021 Act, and
  - (c) if the scheme is to be liable for those costs, how it is to meet them.

#### *Trustee discharge*

19. Where the trustees of a collective money purchase scheme that is pursuing continuity option 1 have discharged the scheme's liability in respect of a beneficiary's accrued rights to benefits under the scheme in accordance with the requirements of section 87 of the 2021 Act (continuity option 1: discharge of liabilities and winding up), the trustees cease to have any further obligation to provide benefits in relation to those rights.

#### *Winding up*

20. As soon as practicable after the trustees of a collective money purchase scheme that is pursuing continuity option 1 have, in accordance with section 87 of the 2021 Act, discharged the scheme's liability in respect of beneficiaries' accrued rights to benefits under the scheme, they must wind up the scheme.

#### *Regulator's power to direct*

21.—(1) The Regulator may direct the trustees of a collective money purchase scheme to do anything they are permitted or required to do by this Schedule where continuity option 1 is being pursued.

(2) The trustees of a collective money purchase scheme must comply with a direction issued by the Regulator requiring them to do anything permitted or required by this Schedule.

#### *Civil penalties*

22. Article 10 of the 1995 Order (civil penalties) applies to a person who fails to comply with a requirement imposed by this Schedule, including where the requirement is contained in a direction made under it.

## SCHEDULE 7

Regulation 35

Collective money purchase benefits: amendments to subordinate legislation

### **Amendments to the Occupational Pension Schemes (Scheme Administration) Regulations**

1.—(1) The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997<sup>(56)</sup> are amended in accordance with sub-paragraphs (2) to (5).

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<sup>(56)</sup> S.R. 1997 No. 94; relevant amending Regulations are S.R. 2015 No. 309, S.R. 2018 No. 53, S.R. 2021 No. 272 and S.R. 2023 No. 158; see also paragraph 1 of Schedule 7 to S.R. 2023 No. 117

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- (2) In regulation 1(2) (interpretation) after the definition of “chair”**(57)** insert—
- ““collective money purchase scheme” means a scheme or a section of a scheme which is a collective money purchase scheme for the purposes of Part 2 of the Pension Schemes Act 2021 (collective money purchase benefits: Northern Ireland);”.
- (3) In regulation 3 (professional advisors’ requirements: exceptions)—
- (a) in paragraph (2)(a) after “schemes” insert “other than to the extent to which they provide collective money purchase benefits”;
- (b) after paragraph (2) insert—
- “(2A) In paragraph (2) “collective money purchase benefits” are benefits which are collective money purchase benefits for the purposes of Part 2 of the Pension Schemes Act 2021 (collective money purchase benefits: Northern Ireland).”.
- (4) In regulation 23(1)**(58)** (annual statement regarding governance)—
- (a) in sub-paragraph (a) after “default arrangement” insert “(if any)”;
- (b) in sub-paragraph (aa)**(59)**—
- (i) in head (i) after “default arrangement” insert “(if any)”;
- (ii) in head (ii) after “fund” insert “(if any)”;
- (c) in sub-paragraph (c)—
- (i) in head (i)**(60)** after “default arrangement” insert “(if any)”;
- (ii) in head (ii)**(61)** after “fund” insert “(if any)”;
- (d) for sub-paragraph (cza) substitute—
- “(cza) for a collective money purchase scheme, state—
- (i) the charges and transaction costs applicable to the scheme;
- (ii) the return on investments, after deduction of any charges or transaction costs relating to those investments, relating to the fund, having regard to guidance issued by the Department under section 109(2A)**(62)** of the Pension Schemes Act (disclosure of information about schemes to members, etc.); and
- (iii) where the scheme is a qualifying collective money purchase scheme for the purposes of regulation 3A of the Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015, the amount of any specified performance-based fees incurred in relation to the scheme during the scheme year, calculated in accordance with regulation 25(1)(a)**(63)**, as a percentage of the average value of the assets held for the purposes of the scheme during the scheme year;”.
- (5) In regulation 25 (assessment of charges and transaction costs)—
- (a) in paragraph (1A)**(64)** after “specified scheme” insert “other than a collective money purchase scheme”;
- (b) after paragraph (1A) insert—

**(57)** The definition of “chair” was inserted by regulation 16(2)(a) of [S.R. 2015 No. 309](#)

**(58)** Regulation 23 was added by regulation 17 of [S.R. 2015 No. 309](#)

**(59)** Sub-paragraph (aa) was inserted by regulation 2(2)(a)(i) of [S.R. 2021 No. 272](#)

**(60)** Head (i) was substituted by regulation 2(a)(i) of [S.R. 2018 No. 53](#)

**(61)** Head (ii) was substituted by regulation 2(2)(a)(ii)(aa) of [S.R. 2021 No. 272](#)

**(62)** Subsection (2A) was inserted by section 38(4) of the Pension Schemes Act (Northern Ireland) 2016

**(63)** Regulation 25 was added by regulation 19 of [S.R. 2015 No. 309](#) and paragraph (1) was amended by regulation 2(3)(a) of [S.R. 2021 No. 272](#) and regulation 2(4) of [S.R. 2023 No. 158](#)

**(64)** Paragraphs (1A) to (1E) were inserted by regulation 2(3)(b) of [S.R. 2021 No. 272](#)

“(1ZA) As part of the assessment referred to in paragraph (1)(b), the trustees of a collective money purchase scheme must assess how the administrative and governance criteria set out in paragraph (1C) are met by the scheme.”;

(c) in paragraph (1C)—

(i) in sub-paragraph (c) after “strategy” insert “(if any)”;

(ii) after sub-paragraph (c) insert—

“(ca) for a collective money purchase scheme, the appropriateness of the investment principles governing decisions about investments for the purposes of the scheme, as set out in the latest statement prepared in accordance with regulation 2 of the Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005<sup>(65)</sup> (statement of investment principles);”.

### **Amendment of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations**

2.—(1) The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010<sup>(66)</sup> are amended in accordance with sub-paragraphs (2) to (6).

(2) In regulation 32E<sup>(67)</sup> (alternative requirements for a money purchase scheme)—

(a) in paragraph (1) for “In relation to” substitute “Subject to paragraph (1A), in relation to”;

(b) after paragraph (1) insert—

“(1A) In relation to a money purchase scheme—

(a) to which section 20<sup>(68)</sup> of the Act applies, and

(b) which provides collective money purchase benefits,

the prescribed alternative requirement is the first, second or third set of requirements set out in paragraph (2), (3) or (4) or, in respect of any jobholders accruing rights to benefits under a collective money purchase scheme, the requirements set out in regulation 32EA.”.

(3) After regulation 32E insert—

#### **“Alternative quality requirements for a collective money purchase scheme**

32EA.—(1) In relation to—

(a) a money purchase scheme to which section 20 of the Act (quality requirement: UK money purchase schemes) applies, under which all the benefits that may be provided are collective money purchase benefits;

(b) a money purchase scheme to which section 20 of the Act applies, in respect of any jobholders accruing rights to benefits under a collective money purchase scheme, and

(c) a hybrid scheme—

(i) to the extent that requirements within section 24(1)(a) of the Act (quality requirement: UK hybrid schemes) apply, and

<sup>(65)</sup> S.R. 2005 No. 569; regulation 2 was amended by regulation 4(2) of S.R. 2018 No. 165 and regulation 2(2) of S.R. 2019 No. 115

<sup>(66)</sup> S.R. 2010 No. 122; relevant amending Regulations are S.R. 2012 No. 237 and S.I. 2019/193; see also paragraph 2 of Schedule 7 to S.R. 2023 No. 117

<sup>(67)</sup> Regulations 32A to 32K were inserted by regulation 2(3) of S.R. 2012 No. 237 and regulation 32E was amended by regulation 29(2) of S.I. 2019/193

<sup>(68)</sup> Section 20 was amended by regulation 3(2) of S.R. 2012 No. 120

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- (ii) in respect of any jobholders accruing rights to benefits under a collective money purchase scheme,

the prescribed alternative requirement is set out in paragraph (2).

(2) The requirement is, subject to paragraphs (3) and (4), that taking all relevant jobholders together, the contributions by, or on behalf of, or in respect of, those relevant jobholders over the certification period are of a total amount equal to at least the prescribed percentage (specified in paragraph (7)) of the applicable category of total relevant earnings for those jobholders (specified in paragraph (6)) over that period.

(3) Where there is or was, as the case may be, a difference in the rights to benefits accruing under a collective money purchase scheme for different groups of relevant jobholders over the certification period as regards all or any of the criteria set out in paragraph (4)(a), and that difference (or those differences taken together) mean that there is or was as the case may be a material difference in the cost of providing those rights, the relevant jobholders for the purposes of paragraph (2) are the relevant jobholders in each such group.

- (4) For the purposes of paragraph (3)—

- (a) the criteria are—

- (i) the rate at which rights to benefits under a collective money purchase scheme accrue or accrued;
- (ii) the provision of survivor's benefits;
- (iii) the normal pension age;
- (iv) the definition of 'pensionable earnings' used by the scheme;
- (v) differences in the calculation or methodology applying to the revaluation and indexation of benefits;
- (vi) the calculation of service, and
- (vii) the terms for retirement before normal pension age, and

- (b) whether a difference in cost is a material difference is to be determined by the actuary.

(5) Where, after the certification period begins (whether or not it has ended), a change is made to the benefits provided to the relevant jobholders under a collective money purchase scheme, the certification period is a period of 18 months commencing with the day on which that change takes effect.

(6) For the purposes of paragraph (2), the relevant earnings are the earnings which the scheme uses to determine pensionable earnings for the purposes of providing collective money purchase benefits to the relevant jobholders, provided that they must be equal to or more than those relevant jobholders' earnings in one of the following categories—

- (a) qualifying earnings;
- (b) basic pay;
- (c) basic pay in circumstances where, taking all the relevant jobholders together, the pensionable earnings of those jobholders constitute at least 85% of the earnings of those jobholders in the certification period;
- (d) earnings, or
- (e) basic pay above—

- (i) the amount of the lower earnings limit specified for the purposes of section 5(1)(a)(i) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(69)</sup> (earnings limits and thresholds for Class 1 contributions), or
- (ii) the amount of the basic state pension specified in the first figure in section 44(4)<sup>(70)</sup> of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (Category A retirement pension).

(7) For the purposes of this regulation, the prescribed percentage is, in relation to the category of earnings described in—

- (a) paragraph (6)(a) and (c), 10%;
- (b) paragraph (6)(b), 11%;
- (c) paragraph (6)(d), 9%, and
- (d) paragraph (6)(e), 13%.

(8) Where the scheme does not provide pension benefits payable on the death of a relevant jobholder, the respective percentages mentioned in paragraph (7) are to be reduced by 1%.”.

(4) In regulation 32G(1)(alternative requirements for a hybrid scheme) after “money purchase scheme” insert “or, in respect of any jobholders accruing rights to benefits under a collective money purchase scheme, the set of requirements set out in regulation 32EA”.

(5) In regulation 32H (scheme not to be treated as satisfying the relevant quality requirement in certain circumstances)—

(a) after paragraph (1) insert—

“(1A) Where—

- (a) a certificate has been given in relation to an employer and its relevant jobholders with respect to an alternative quality requirement under regulation 32EA;
- (b) the Regulator is of the view that, when the certificate was given, there were not reasonable grounds for a person to be of the opinion that the scheme was able to satisfy the requirement referred to in regulation 32EA(2), and
- (c) in relation to all or any part of the certification period, the requirement referred to in regulation 32EA(2) was not met,

the Regulator may give to the employer a notice as referred to in paragraph (8A).”;

(b) in paragraph (2) after “paragraph (5)” insert “or (8A)”;

(c) after paragraph (8) insert—

“(8A) The notice referred to is a notice requiring the employer, within the period specified in the notice, to pay to the trustees or managers of the scheme the shortfall between the contributions that are required to be paid by the employer and the relevant jobholders under the scheme, and the contributions that were required to be paid to meet the requirement in regulation 32EA(2) during the certification period.

(8B) A notice as referred to in paragraph (8A) may also require the employer, within a period specified in the notice, to amend the certificate, under regulation 32B, so that the certification period ends on a specified day, being a day before the last day of the certification period but not before the last day of the relevant payment period.

(8C) A notice as referred to in paragraph (8A) must be copied to the trustees or managers of the scheme.

<sup>(69)</sup> 1992 c. 7; section 5 was substituted by paragraph 1 of Schedule 10 to the Welfare Reform and Pensions Act 1999 (c. 30) and subsection (1) was amended by Schedule 2 to the National Insurance Contributions Act 2008 (c. 16)

<sup>(70)</sup> Section 44(4) was substituted by Article 64 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) and amended by Article 4(3) of S.R. 2022 No. 143

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- (8D) Where a notice as referred to in paragraph (8A) has been given and the employer amends the certificate under regulation 32B(5) so that the certification period ends before the last day of the relevant payment period—
- (a) the relevant payment period shall be treated as though it ended on the last day of the new certification period;
  - (b) the employer must, within a period of 2 weeks beginning with the day on which the certificate was amended, notify the Regulator in writing of the amendment, and
  - (c) the Regulator may decide to alter the period, as set out in the notice as referred to in paragraph (8A), within which the employer must pay a shortfall of contributions as referred to in that paragraph.”;
- (d) in paragraph (9) after “paragraph (8)(c)” insert “or (8D)(c)”;
- (e) in paragraph (10) in the definition of “the relevant payment period” after “paragraph (5)” insert “or (8A)”.
- (6) In regulation 32K(1) (interpretation)—
- (a) before the definition of “alternative requirement” insert—
    - ““actuary” means an actuary appointed by the scheme or the employer;”;
  - (b) in the definition of “alternative requirement” after “by regulation 32E,” insert “32EA,”;
  - (c) after the definition of “certification period” insert—
    - ““collective money purchase scheme” has the meaning set out in section 52(2) of the Pension Schemes Act 2021;”.

### **Amendments to the Occupational Pension Schemes (Charges and Governance) Regulations**

3. The Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015(71) are amended in accordance with paragraphs 4 to 22.

- 4.—(1) Regulation 2 (interpretation) is amended in accordance with sub-paragraphs (2) to (6).
- (2) In paragraph (1)—
- (a) before the definition of “the Administration Regulations” insert—
    - ““the 2021 Act” means the Pension Schemes Act 2021;”;
  - (b) after the definition of “charges year” insert—
    - ““collective contribution percentage charge” has the meaning given in regulation 5A(3);
    - “collective flat fee charge” has the meaning given in regulation 5A(3);
    - “collective existing rights charge” has the meaning given in regulation 5A(3);
    - “collective money purchase benefit” has the meaning given in section 52(1) of the 2021 Act;
    - “collective money purchase scheme” has the meaning given in section 52(2) of the 2021 Act;
    - “collective single charge structure” has the meaning given in regulation 5A(2);”;
  - (c) in the definition of “contributing member”—

(71) [S.R. 2015 No. 309](#); relevant amending Regulations are [S.R. 2016 No. 171](#), [S.R. 2018 No. 54](#) and [S.R. 2021 No. 272](#); *see also* paragraphs 3 to 22 of Schedule 7 to [S.R. 2023 No. 117](#)



- (i) after “relevant scheme” insert “, that is not a collective money purchase scheme,”;
- (ii) after “money purchase benefits” insert “(other than collective money purchase benefits)”;
- (d) in the definition of “performance fee”(72)—
  - (i) in paragraph (b)—
    - (aa) at the beginning insert “in the case of a relevant scheme that is not a collective money purchase scheme,”;
    - (bb) for “scheme;” substitute “scheme, or”;
  - (ii) after paragraph (b) add—
    - “(c) in the case of a relevant scheme that is a collective money purchase scheme, is not calculated by reference to the value of members’ rights under the scheme;”;
- (e) after the definition of “physical asset”(73) insert—
  - ““qualifying collective money purchase scheme” has the meaning given in regulation 3A;”;
- (f) after the definition of “qualifying scheme employer”(74) insert—
  - ““qualifying section employer” means an employer in relation to whom a section of a pension scheme, which is a collective money purchase scheme for the purposes of section 1(2)(b) of the 2021 Act, is being used by a qualifying scheme in relation to at least one of its jobholders;”;
- (g) in the definition of “specified scheme”(75) after “relevant scheme” insert “, that is not a collective money purchase scheme for the purposes of section 52(2)(b) of the 2021 Act,”;
- (h) after the definition of “specified scheme” insert—
  - ““specified section” means a relevant scheme that is a collective money purchase scheme for the purposes of section 52(2)(b) of the 2021 Act in which at least one qualifying section employer participates;”.
- (3) In paragraph (2)—
  - (a) in sub-paragraph (a) for “money purchase benefits, or” substitute “money purchase benefits other than collective money purchase benefits;”
  - (b) in sub-paragraph (b)—
    - (i) after “money purchase benefits,” insert “other than collective money purchase benefits,”;
    - (ii) at the end insert “or”;
  - (c) after sub-paragraph (b) insert—
    - “(c) a collective money purchase scheme,”.
- (4) After paragraph (2) insert—
  - “(2A) Where a pension scheme is divided into sections, each section that is a collective money purchase scheme for the purposes of Part 2 of the 2021 Act (see section 52(2)(b)) is to be treated for the purposes of these Regulations as a separate scheme.”.
- (5) After paragraph (3) insert—

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(72) The definition of “performance fee” was inserted by regulation 6(2)(a)(iii) of [S.R. 2021 No. 272](#)

(73) The definition of “physical asset” was inserted by regulation 6(2)(a)(iii) of [S.R. 2021 No. 272](#)

(74) The definition of “qualifying section employer” was inserted by regulation 3(b) of [S.R. 2016 No. 171](#)

(75) The definition of “specified scheme” was inserted by regulation 3(d) of [S.R. 2016 No. 171](#)

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“(3A) Where, in these Regulations, a collective flat fee charge is to be calculated and these Regulations have applied to a member of a qualifying collective money purchase scheme for a period of less than a charges year, the charge associated with that member for the purposes of calculating the collective flat fee charge (see regulation 6A(4)(a)) must be calculated on a pro rata basis.”

- (6) In paragraph (4)—
- (a) in sub-paragraph (c) for “charge.” substitute “charge;”;
  - (b) after sub-paragraph (c) add—
    - “(d) a charge under a collective single charge structure;
    - (e) a collective existing rights charge.”.
5. In regulation 3(9) (default arrangement) after the definition of “relevant jobholder” insert—  
 ““relevant scheme” does not include a collective money purchase scheme;”.
6. After regulation 3 insert—

**“Qualifying collective money purchase schemes**

3A.—(1) A relevant scheme is a “qualifying collective money purchase scheme” if—

- (a) it is a collective money purchase scheme, and
- (b) it is being used—
  - (i) as a qualifying scheme in relation to one or more relevant jobholders, or
  - (ii) by a qualifying scheme in relation to one or more relevant jobholders.

(2) Where a scheme is a qualifying collective money purchase scheme, it continues to be such a scheme regardless of whether it continues to satisfy paragraph (1)(b).

(3) Where a qualifying collective money purchase scheme that is not divided into sections (an “undivided scheme”) becomes a scheme that is divided into sections, any section of that scheme that is a collective money purchase scheme (for the purposes of section 52(2) of the 2021 Act) under which collective money purchase benefits may be provided to persons who were members of the undivided scheme (to whom such benefits were payable under that scheme), is a qualifying collective money purchase scheme regardless of whether it satisfies paragraph (1)(b).

(4) In this regulation, “relevant jobholder” means a jobholder of one or more of the employers that is using the qualifying collective money purchase scheme.”.

7. In the heading to Chapter 1 of Part 2 (default arrangements, non-contributing members and payments to advisers)(76) after “default arrangements,” insert “qualifying collective money purchase schemes,”.

8.—(1) Regulation 4 (restrictions on charges) is amended in accordance with sub-paragraphs (2) to (8).

- (2) In paragraph (1)(77)—
- (a) after “relevant scheme” insert “, that is not a collective money purchase scheme;”;
  - (b) in sub-paragraph (a) after “this Chapter” insert “, with the exception of regulation 6A”;
  - (c) in sub-paragraph (b) for “regulation” substitute “regulations 5A and”.
- (3) After paragraph (1) insert—

(76) The heading to Chapter 1 was inserted by regulation 6(3) of S.R. 2021 No. 272

(77) Paragraph (1) was amended by regulation 4(1)(a) of S.R. 2016 No. 171 and regulation 6(4)(a) of S.R. 2021 No. 272

“(1ZA) Subject to regulation 9, the trustees of a relevant scheme that is a qualifying collective money purchase scheme must not impose or permit to be imposed on the members of that scheme, in respect of members’ rights under the scheme, charges which—

- (a) exceed the limits specified in this Chapter, with the exception of regulation 6, or
- (b) are of a description prohibited by this Chapter, with the exception of regulations 5, 11 and 11A.”.

(4) In paragraph (2)(78)—

- (a) after “regulations” insert “5A, 6A, 7A, 8A,”;
- (b) in sub-paragraph (a) after “relevant scheme” insert “, that is not a collective money purchase scheme,”.

(5) In paragraph (3)(79)—

- (a) for “The application” substitute “For the purposes of paragraph (2), the application”;
- (b) for “5 to 9” substitute “5, 6, 7, 8 and 9”;
- (c) in sub-paragraph (a) after “another” insert “(unless the receiving scheme is a qualifying collective money purchase scheme)”.

(6) After paragraph (3) insert—

“(3A) If the receiving scheme referred to in paragraph (3) is a collective money purchase scheme (other than a qualifying collective money purchase scheme), this regulation and regulations 5, 6, 7, 8 and 9 apply in respect of the value of a member’s rights, following any such transfer, as if the person was a member of a relevant scheme within the meaning of regulation 2(2)(a) or (b) to whom this Chapter applies in accordance with paragraph (2) (unless the person is a pensioner member of the receiving scheme, including a person who has become a pensioner member of the receiving scheme after the transfer).

(3B) Subject to paragraph (3C), the application of this regulation and regulations 5A, 6A, 7A, 8A and 9 in respect of a member of a relevant scheme that is a qualifying collective money purchase scheme is not affected by a transfer of the member’s rights to a relevant scheme, where the member has not given consent to the transfer.

(3C) Paragraph (3B) does not apply in respect of the transfer of a member’s rights from a qualifying collective money purchase scheme to a relevant scheme (within the meaning of regulation 2(2)(a) or (b))—

- (a) if this Chapter (with the exception of regulations 5A, 6A, 7A, 8A, 11 and 11A) would otherwise apply to the member by virtue of paragraph (2) upon their rights being transferred, or
- (b) if the member is a pensioner member of the qualifying collective money purchase scheme.

(3D) If a member’s rights are transferred from a relevant scheme that is a qualifying collective money purchase scheme to a relevant scheme that is not a qualifying collective money purchase scheme (and paragraph (3B) applies in respect of the transfer of that member’s rights)—

- (a) this regulation and regulations 5A, 6A, 7A, 8A and 9 apply in respect of that member (and any other members whose rights have been transferred at the same time) as if the person was a member, or as if the persons were members, of a qualifying collective money purchase scheme (unless the relevant scheme to which the rights are transferred is not a collective money purchase scheme and

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(78) Paragraph (2) was amended by regulation 4(1)(c) of [S.R. 2016 No. 171](#) and regulation 6(4)(b) of [S.R. 2021 No. 272](#)

(79) Paragraph (3) was added by regulation 3(2) of [S.R. 2018 No. 54](#)

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any such person is a pensioner member of the scheme, including a person who has become a pensioner member of the scheme after the transfer), and

- (b) references in this regulation and in regulations 5A, 6A, 7A, 8A and 9 to members of a qualifying collective money purchase scheme are to be read as references to those members subject to the transfer.”

(7) In paragraph (4)(80) for “This Chapter does not apply to a member of a relevant scheme” substitute “This Chapter does not apply to a member of a relevant scheme that is not a collective money purchase scheme”.

(8) After paragraph (4) add—

“(5) In this regulation “pensioner member” has the meaning given in Article 121(1)(81) of the 1995 Order.”.

9. In the heading to regulation 5 (prohibited charge structures) after “prohibited charge structures” insert “ – default arrangements”.

10. After regulation 5 insert—

**“Prohibited charge structures – qualifying collective money purchase schemes**

5A.—(1) The description of the charges which are prohibited under regulation 4(1ZA)

(b) are charges under a charge structure other than—

- (a) a collective single charge structure, or  
(b) a collective combination charge structure.

(2) In these Regulations a collective single charge structure is one under which charges are calculated solely by reference to the value of members’ rights under the scheme.

(3) In these Regulations, a collective combination charge structure is one under which charges are calculated by reference to the value of members’ rights under the scheme (“a collective existing rights charge”) and either—

- (a) calculated as a percentage of the value of contributions made by or on behalf or in respect of members of the scheme towards the scheme (“a collective contribution percentage charge”), or  
(b) calculated by reference to a period of time and not by reference to contributions made by or on behalf or in respect of members of the scheme towards the scheme or to the value of members’ rights under the scheme (“a collective flat fee charge”).

(4) For the purposes of regulation 4(1ZA)(b), neither the charge structure, nor the type of collective combination charge structure, that applies to the members may be changed during a charges year.”.

11. In the heading to regulation 6 (limits on charges) after “limits on charges” insert “ – default arrangements”.

12. After regulation 6 insert—

**“Limits on charges – qualifying collective money purchase schemes**

6A.—(1) The limits on charges for the purposes of regulation 4(1ZA)(a) are the limits specified in this regulation and the trustees must choose whether to assess them in accordance with regulation 7A or 8A (but see regulation 8A(7)).

(80) Paragraph (4) was added by regulation 3(2) of S.R. 2018 No. 54 and amended by regulation 6(4)(c) of S.R. 2021 No. 272

(81) The definition of “pensioner member” was amended by Article 11(7) of S.I. 2006/745

(2) The limit in the case of a collective single charge structure is 0.75% annually of the value of members' rights under the scheme.

(3) The limit in the case of a collective combination charge structure whose charges fall within regulation 5A(3)(a) is—

- (a) in relation to the collective contribution percentage charge, 2.5% of contributions made by or on behalf or in respect of members allocated under the scheme—
  - (i) annually, or
  - (ii) where, in relation to a charges year, regulation 4 does not apply in respect of members for the whole of the year, in the period for which that regulation applies, and
- (b) in relation to the collective existing rights charge, the percentage annually of the value of members' rights under the scheme which is the figure in Column 2 of the following table which corresponds to the collective contribution percentage charge rate in Column 1 of that table which is imposed on the members.

<i>Column 1</i>	<i>Column 2</i>
<i>Collective contribution percentage charge rate (%)</i>	<i>Collective existing rights charge rate (%)</i>
1 or lower	0.6
Higher than 1 but no higher than 2	0.5
Higher than 2 but no higher than 2.5	0.4

(4) The limit in the case of a collective combination charge structure whose charges fall within regulation 5A(3)(b) is—

- (a) in relation to the collective flat fee charge, £25 annually per member, and
- (b) in relation to the collective existing rights charge, the percentage annually of the value of members' rights under the scheme which is the figure in Column 2 of the following table which corresponds to the annual collective flat fee charge per member in Column 1 of that table which is imposed on the members.

<i>Column 1</i>	<i>Column 2</i>
<i>Collective flat fee charge (£ per member)</i>	<i>Collective existing rights charge rate (%)</i>
10 or less	0.6
More than 10 but no more than 20	0.5
More than 20 but no more than 25	0.4

13. In the heading to regulation 7 (assessment of charges) after “assessment of charges” insert “– default arrangements”.

14. After regulation 7 insert—

**“ Assessment of charges – qualifying collective money purchase schemes**

7A.—(1) If the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation, the following provisions apply.

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(2) Trustees must calculate the value of members' rights under the scheme at reference points set at equal intervals during the charges year of no more than 3 months (but see paragraphs (3), (6) and (7)).

(3) Where trustees change the intervals between reference points chosen for the purposes of paragraph (2) during the charges year, the start of the first new interval must commence on the day following the reference point at the end of the previous interval.

(4) The limit of permitted charges under—

- (a) a collective single charge structure, or
- (b) a collective existing rights charge in a collective combination charge structure,

is exceeded if the charges imposed on the members annually exceed the average of the reference point values multiplied by the applicable percentage.

(5) The applicable percentage is—

- (a) in the case of a collective single charge structure, 0.75%, and
- (b) in the case of a collective existing rights charge in a collective combination charge structure, the percentage in Column 2 of the table—
  - (i) in regulation 6A(3), where a collective contribution percentage charge is imposed, and
  - (ii) in regulation 6A(4), where a collective flat fee is imposed.

(6) Where members have rights under the scheme at only one reference point referred to in paragraph (2), paragraph (4) is to be read as if the words “average of the reference point values” read “value at the reference point”.

(7) Where members have no rights under the scheme at a reference point referred to in paragraph (2), paragraph (4) is to be read as if the words “average of the reference point values” read “value of members' rights under the scheme on the final day of the charges year or, if there are no members who have such rights on that day, on the final day on which there are members who have such rights.”

(8) In this regulation monthly, 2 monthly and 3 monthly intervals are to be treated as equal intervals.

(9) Paragraph (10) applies where the charges imposed on the members include a performance fee payable at the end of the investment period.

(10) For the purposes of paragraph (4), the charge imposed annually on the members in relation to the performance fee may be treated as X divided by Y, where—

- (a) X is the sum of the performance fees accrued in relation to the return earned by the assets in the scheme (“the relevant assets”) during the relevant charges year and each of the preceding charges years, up to a maximum of 4 preceding charges years, and
- (b) Y is—
  - (i) 5, or
  - (ii) where the investment period is less than 5 charges years, the number of charges years in the relevant period.

(11) Where the trustees choose to calculate the charge imposed annually on the members in accordance with paragraph (10), the trustees must, at the end of each charges year during the investment period, calculate—

- (a) the return earned by the relevant assets during that charges year;
- (b) the performance fee which has accrued in relation to that return.

(12) In this regulation “investment period” means the total period for which the assets in the scheme are invested in an investment for which a performance fee is payable at the end of the investment period.”.

15. In the heading to regulation 8 (alternative assessment of charges) after “charges” insert “ – default arrangements”.

16. After regulation 8 insert—

**“Alternative assessment of charges – qualifying collective money purchase schemes.**

8A.—(1) If the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation, the limit of permitted charges under—

(a) a collective single charge structure, or

(b) a collective existing rights charge in a collective combination charge structure, is not exceeded if, on the first day of the charges year, the charges regime to be applied to members’ rights under the scheme meets the requirement in paragraph (2) and that charges regime is applied to members’ rights throughout that charges year.

(2) The requirement referred to in paragraph (1) is that the charges regime would not result in charges being imposed on the members exceeding the limit of permitted charges when calculated in accordance with regulation 7A, if the assumptions in paragraph (3) and, if the trustees so choose, the assumption in paragraph (4) are made for the purposes of those calculations.

(3) The assumptions to be made for the purposes of paragraph (2) are—

(a) the value of members’ rights under the scheme will not increase or decrease during the charges year when compared to the value on the first day of the charges year, other than as a result of charges imposed on the members, and

(b) all the members may leave the scheme at any time during that charges year.

(4) The assumption which may be made for the purposes of paragraph (2) is that, where the charges include a performance fee to which regulation 7A(10) applies, the charge to be imposed on the members in relation to the forthcoming charges year will be X divided by Y, where—

(a) X is the sum of the performance fees accrued in relation to the return earned by the assets in the scheme during each of the years preceding the charges year in question, up to a maximum of 5 preceding charges years, and

(b) Y is—

(i) 5, or

(ii) where the investment period is less than 5 charges years, the number of charges years in the relevant period.

(5) In this regulation “charges regime” means—

(a) the charges to be imposed, and any rebates of charges to be applied, as a percentage of the value of members’ rights under the scheme;

(b) when they are to be deducted from, or added to, the value of members’ rights throughout the charges year;

(c) how the value of members’ rights will be calculated for the purposes of imposing or rebating charges.

(6) Where the first contribution made by or on behalf or in respect of members to the scheme is made after the first day of the charges year, paragraphs (1) and (3)(a) are to be read

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as if “on the first day of the charges year” read “on the date on which the first contribution is made in a charges year”.

(7) Where the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation but, during the charges year the charges regime fails to meet the requirement in paragraph (2), the trustees must assess charges for the whole charges year in accordance with regulation 7A.”.

17. In regulation 9 (member agreement for services)—

(a) in paragraph (1) after “Subject to paragraph (3),” insert “in the case of a member of a relevant scheme (that is not a collective money purchase scheme),”;

(b) after paragraph (1) insert—

“(1A) Subject to paragraph (3), in the case of the members of a relevant scheme (that is a qualifying collective money purchase scheme), the restrictions in regulation 4 (with the exception of regulation 4(1A)) do not apply in relation to advice or a service for which a member has entered into an agreement with a person for the provision of that advice or service, provided the conditions in paragraph (2) are satisfied.”;

(c) in paragraph (2)—

(i) for “paragraph (1)” substitute “paragraphs (1) and (1A)”;

(ii) in sub-paragraph (b)(ii) after “default arrangement” insert “or under a qualifying collective money purchase scheme, as applicable”;

(d) in paragraph (4)—

(i) in sub-paragraph (e) for “arrangement.” substitute “arrangement;”;

(ii) after sub-paragraph (e) add—

“(f) a transfer out of a qualifying collective money purchase scheme into a different scheme;

(g) a transfer into a qualifying collective money purchase scheme.”.

18. In regulation 10(1) (charge limits adjustment) after “relevant scheme” insert “, that is not a collective money purchase scheme,”.

19. In regulation 11(5) (non-contributing members) in the definition of “relevant scheme” for “regulation 2(2)” substitute “regulation 2(2)(a) or (b)”.

20. In regulation 11A(82) (relevant information)—

(a) in paragraph (1)(83)—

(i) for “applies” substitute “applies—“;

(ii) the wording from “to a member” to the end shall be renumbered as sub-paragraph (a) of that paragraph;

(iii) in sub-paragraph (a) as renumbered for “that scheme.” substitute “that scheme, or”

(iv) after sub-paragraph (a) add—

“(b) to a member of a specified section, if the member is, or was, a worker of a qualifying section employer who participates or has participated in the section.”;

(b) in paragraph (3) after “specified scheme”, in both places where it occurs, insert “or specified section, as applicable”.

(82) Regulations 11A to 11C were inserted by regulation 5 of S.R. 2016 No. 171

(83) Paragraph (1) was amended by regulation 6(9)(a) of S.R. 2021 No. 272



21. In regulation 11B (relevant information) after paragraph (7) add—

“(8) In this regulation, in relation to a specified section, references to a “specified scheme” are to be read as references to a “specified section”.”.

22. In regulation 11C (member agreement for payments to advisers) for paragraph (5) substitute—

“(5) In this regulation—

“charge limits” has the meaning given in regulation 10(10);

“specified scheme” does not include a relevant scheme that is a collective money purchase scheme.”.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and re-enact the Occupational Pension Schemes (Collective Money Purchase Schemes) (No. 2) Regulations (Northern Ireland) 2023 (“the Collective Money Purchase Schemes Regulations”) which would otherwise cease to have effect by virtue of section 112(3)(b) of the Pensions (No. 2) Act (Northern Ireland) 2008, section 51(3)(b) of the Pensions Act (Northern Ireland) 2015 and section 102(5)(b) of the Pension Schemes Act 2021 (“the 2021 Act”). Like the Collective Money Purchase Schemes Regulations, the Regulations implement the new authorisation and supervisory regime for collective money purchase schemes under Part 2 of the 2021 Act. They also make provision for amendments to subordinate legislation in relation to schemes providing collective money purchase benefits.

Part 1 of these Regulations contains introductory provisions. In particular, regulation 3 sets out when one employer is treated as connected with another employer for the purposes of Part 2 of the 2021 Act.

Part 2 of these Regulations makes provision relating to sections of qualifying schemes. In particular, regulation 4 sets out certain characteristics of qualifying benefits. If a scheme provides a combination of qualifying benefits where these characteristics are different, those benefits must be provided under different sections. Regulation 5 makes provision about where an authorisation granted in respect of an undivided collective money purchase scheme will apply to a section following the division of the scheme into sections.

Part 3 of these Regulations makes provision relating to the authorisation of a collective money purchase scheme. Regulation 6 sets out the information to be included in an application to the Pensions Regulator (“the Regulator”) for authorisation (in addition to the information specified in the 2021 Act). Regulation 6 also introduces Part 1 of Schedule 3, which sets out the information to be included in an application in relation to whether a scheme is financially sustainable.

Regulation 7 requires an application for authorisation to be accompanied by a fee payable to the Regulator, which is either a set amount or in certain circumstances an amount to be determined by the Regulator.

Regulation 8 introduces Schedule 1, which sets out the matters that the Regulator must take into account in assessing whether a person involved in a collective money purchase scheme is a fit

and proper person. Regulation 8 also makes provision for this assessment in cases where a person involved in a collective money purchase scheme is a body corporate.

Regulation 9 relates to the scheme design requirement. It introduces Part 1 of Schedule 2, which sets out the matters that the Regulator must take into account in deciding whether the design of a collective money purchase scheme is sound.

Regulation 10 introduces Part 2 of Schedule 2, which sets out the information that must be contained in a viability report prepared by the trustees of a collective money purchase scheme. Regulation 10 also sets out more detail relating to the preparation of the viability report.

Regulation 11 introduces Part 3 of Schedule 2 which sets out the information that must be included in a viability certificate provided by the scheme actuary. Regulation 11 also sets out the matters the scheme actuary must have regard to when providing a viability certificate and considering whether the design of the scheme is sound.

Regulation 12 introduces Part 2 of Schedule 3, which sets out the matters that the Regulator must take into account in deciding whether it is satisfied that a collective money purchase scheme is financially sustainable, and Part 3 of Schedule 3 which sets out requirements to be met by a collective money purchase scheme in relation to its financing.

Regulation 13 introduces Schedule 4 which sets out the matters that the Regulator must take into account in deciding whether it is satisfied that a collective money purchase scheme has adequate systems and processes for communicating with members and others.

Regulation 14 introduces Schedule 5 which sets out the matters that the Regulator must take into account in deciding whether the systems and processes used in running a collective money purchase scheme are sufficient to ensure that the scheme is run effectively.

Regulation 15 contains requirements about a collective money purchase scheme's continuity strategy and sets out information that must be included in the strategy. A continuity strategy is a document setting out how the interests of members of the scheme are to be protected if a triggering event occurs in relation to the scheme. Regulation 16 contains requirements about how the continuity strategy must set out levels of administration charges that apply in relation to members of the scheme.

Part 4 of these Regulations relates to valuation and benefit adjustments. Regulation 17 sets out provisions that the rules of a collective money purchase scheme must contain relating to the determination of the value of the available assets of the scheme, the determination of the required amount and the adjustment of the rate or amount of benefits provided under the scheme. Regulation 17 also makes provision for where trustees of a collective money purchase scheme apply a multi-annual reduction to the rate or amount of benefits provided under the scheme.

Regulation 18 makes provision regarding guidance to which the scheme actuary must have regard when advising the trustees of a collective money purchase scheme.

Regulation 19 makes provision regarding actuarial valuations of the scheme including when the trustees of a collective money purchase scheme must obtain an actuarial valuation and what the valuation must contain.

Regulation 20 sets out the information that must be included in a report given by the trustees of a collective money purchase scheme to the Regulator if a benefit adjustment is not made in accordance with the most recent actuarial valuation or does not take effect in accordance with scheme rules.

Regulation 21 makes provision regarding what must be included in a direction issued by the Regulator under section 74 of the 2021 Act.

Part 5 of these Regulations makes provision about the ongoing supervision by the Regulator of a collective money purchase scheme. Regulation 22 sets out the information which the Regulator may require to be included in the supervisory return (a document which the Regulator may require schemes to submit to it).

Regulation 23 lists the significant events in relation to the scheme, which are events which must be notified to the Regulator by persons specified in the 2021 Act. Regulation 23 also sets out further information that must be provided to the Regulator by a person who is required to give notice of a significant event.

Regulation 24 makes provision about risk notices including what must be contained in a risk notice. Risk notices are notices given by the Regulator to the trustees of a collective money purchase scheme under section 80 of the 2021 Act (risk notices).

Part 6 of these Regulations makes provision about triggering events and continuity options. Regulation 25 sets out the matters which must be notified by a trustee to employers and relevant former employers if a triggering event occurs in relation to a collective money purchase scheme; and when notifications under section 84 of the 2021 Act (notification of triggering events) must be given.

Regulation 26 sets out when an implementation strategy must be submitted to the Regulator for approval. An implementation strategy is a document setting out how the interests of members of a collective money purchase scheme are to be protected following the occurrence of a triggering event.

Regulation 27 sets out the information to be included in an implementation strategy about levels of administration charges in relation to members of the scheme. Regulation 28 sets out other information that an implementation strategy must contain.

Regulation 29 introduces Schedule 6 which sets out the procedure to be followed when a triggering event has occurred and the trustees of a collective money purchase scheme are required, or decide, to pursue continuity option 1 (under which the scheme's liabilities to each beneficiary are discharged by transfer out of the scheme, or securing the payment of benefits by some other means, and the scheme is wound up).

Regulation 30 applies where a triggering event has occurred and the trustees of a collective money purchase scheme are pursuing continuity option 2 (resolving triggering event). It prescribes the deadline for a scheme's trustees to notify the Regulator when they believe that a triggering event has been resolved.

Regulation 31 applies where a triggering event has occurred and the trustees of a collective money purchase scheme are pursuing continuity option 3 (conversion to closed scheme). It prescribes the deadline for a scheme's trustees to notify the Regulator when they consider that preparations for the conversion of the scheme into a closed scheme are complete.

Regulation 32 prescribes the deadline for a scheme's trustees to submit their first periodic report to the Regulator during a triggering event period, and specifies the information which reports must contain in addition to that required by the 2021 Act.

Regulation 33 modifies section 95 of the Pension Schemes (Northern Ireland) Act 1993 as it applies to a collective money purchase scheme in respect of which the Regulator has made a pause order under section 95 of the 2021 Act.

Regulation 34 sets out the administration charges that are not included in the prohibition on increasing charges during a triggering event period for a collective money purchase scheme in section 96 of the 2021 Act. It also applies the provisions of section 96 of the 2021 Act to certain receiving schemes.

Part 7 of these Regulations makes provision for amendments to subordinate legislation in relation to schemes providing collective money purchase benefits. In particular, regulation 35 introduces Schedule 7 which contains amendments to the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997, the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 and the Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015 in relation to collective money purchase schemes.

Part 8 of these Regulations revokes the Collective Money Purchase Schemes Regulations.

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As these Regulations, in so far as they are made under Schedule 18 to the Pensions Act (Northern Ireland) 2015, make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement for consultation does not apply by virtue of paragraph 8 of Schedule 18 to that Act.

An assessment of the cost to business of the Regulations is detailed in a Regulatory Impact Assessment which accompanied the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations (Northern Ireland) 2022 (S.R. 2022 No. 191), a copy of which was laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of the Assessment are available from the Department for Communities, Social Security Policy, Legislation and Decision Making Services, Level 8, Causeway Exchange, 1-7 Bedford Street, Belfast BT2 7EG or from the website: <https://www.communities-ni.gov.uk/articles/pension-information>. A copy of the Assessment is also annexed to the Explanatory Memorandum which is available alongside this Statutory Rule on the website: <http://www.legislation.gov.uk/nisr>.