
DRAFT STATUTORY INSTRUMENTS

2015 No.

**The Occupational Pension Schemes
(Charges and Governance) Regulations 2015**

PART 1

INTRODUCTION

Default arrangement

3.—(1) Subject to paragraph (6), a “default arrangement”, in relation to an employer, means an arrangement which—

- (a) on or after the relevant date is used by a qualifying scheme (which is a relevant scheme) in relation to one or more relevant jobholders; and
- (b) satisfies one or more of the descriptions in paragraph (2).

(2) The descriptions referred to in paragraph (1) are—

- (a) an arrangement under which the contributions of one or more workers are allocated to a fund or funds where those workers have not expressed a choice as to where those contributions are allocated;
- (b) subject to paragraph (3), an arrangement which, on the relevant date, was an arrangement under which the contributions of 80% or more of the workers who were contributing members of the scheme on that date were allocated where those workers were required to make a choice as to where their contributions were allocated;
- (c) an arrangement which first received contributions from workers after the relevant date, and under which, at any point after the relevant date, the contributions of 80% or more of workers who are contributing members of the scheme are allocated where those workers were required to make a choice as to where their contributions are allocated.

(3) An arrangement does not satisfy the description in paragraph (2)(b) if, at any time before the relevant date—

- (a) each worker whose contributions were allocated under the arrangement (‘the original arrangement’) at that time was informed that contributions payable on or after the relevant date would be allocated under a default arrangement satisfying the description in paragraph (2)(a) (‘the new arrangement’) unless the worker agreed that allocation of the worker’s contributions under the original arrangement should continue; and
- (b) in the event that a worker did not agree that allocation of that worker’s contributions to the original arrangement should continue, that worker’s contributions payable on or after the relevant date were allocated to the new arrangement.

(4) A worker’s agreement, referred to in paragraph (3)(a), must—

- (a) be in writing; and
- (b) include a statement that the worker acknowledges that charges under the original arrangement may be higher than would otherwise be permitted under these Regulations.

(5) Where an arrangement is a default arrangement in relation to an employer by virtue of paragraph (1), it continues to be such an arrangement regardless of whether it continues to satisfy that paragraph.

(6) An arrangement is not a default arrangement if, at any time before a benefit under that arrangement comes into payment, it provides for a pensions promise to be obtained from a third party in relation to any such benefit.

(7) For the purposes of paragraph (6) -

(a) a “pensions promise” is a promise about the level of the benefit;

(b) an arrangement provides for a promise to be obtained from a third party if it—

(i) requires the promise to be obtained from a third party; or

(ii) provides for the worker to be given the option of requiring a promise to be obtained from a third party (whether or not the option is subject to conditions).

(8) For the purposes of paragraph (7)(a) a promise about the level of the benefit includes a promise about factors that will be used to calculate the level of the benefit, but does not include a promise if, or to the extent that, it consists merely of a promise that the level of benefit will be calculated by reference to an amount available for its provision.

(9) In this regulation—

“contributing member” does not include a member whose contributions are solely additional voluntary contributions.

“relevant date” means the date referred to in regulation 1(2) or, if later, the employer’s staging date;

“relevant jobholder” means a jobholder of the employer referred to in paragraph (1);

“staging date” means the date on which sections 2 to 9 of the 2008 Act⁽¹⁾ first apply to the employer; and

“worker” means a worker of the employer referred to in paragraph (1).

(1) Section 2 was amended by the Pensions Act 2011 (c. 19) (“the 2011 Act”), section 4. Section 3 was amended by the 2011 Act, sections 5 and 6, and S.I. 2012/1506, S.I. 2013/667 and S.I. 2014/623. Section 4 was substituted by the 2011 Act, section 6(2). Section 5 was amended by the 2011 Act, sections 4, 5 and 6, the Pensions Act 2014, sections 37 and 38 and S.I. 2012/1506, S.I. 2013/667 and S.I. 2014/623. Section 6 was amended by the 2011 Act, sections 4, 6 and 7. Section 7 was amended by the 2011 Act, section 6.