
DRAFT STATUTORY INSTRUMENTS

2022 No.

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

PART 5

Ongoing supervision

Supervisory return: contents

22. For the purposes of section 27(2) of the 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 sections 247 (requirement for knowledge and understanding: individual trustees), 248 (requirement for knowledge and understanding: corporate trustees) and 249 (requirement for knowledge and understanding: supplementary) of the 2004 Act⁽¹⁾ as applicable;
- (b) any other information that is relevant to the authorisation criteria listed in section 9(3) of the Act (decision on application).

Significant events

23.—(1) The following are significant events for the purposes of section 28 of the 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 11(2) of the Act (fit and proper persons requirement);
- (b) an individual who is involved with the scheme in a capacity mentioned in section 11(2) of the 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;

⁽¹⁾ Section 248(8) was amended by [S.I. 2009/1941](#).

- (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 11(2) of the 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 11 of the 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 1(2)(a) of the 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 1(2)(b) of the 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 13(4) or (5) of the Act (viability report);
 - (g) an event which, in the opinion of a person mentioned in section 28(2) of the 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 28(2) of the 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 28(2) of the Act, is unlikely to be able to meet its running costs;
 - (j) in the opinion of a person mentioned in section 28(2) of the Act, the scheme will be unable or is unlikely to be able, to meet the costs mentioned in section 14(2)(b) of the 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 28(4) of the 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 29(3)(b) of the 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 29(4) of the 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 29(7)(a) of the 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 section 10 of the 1995 Act⁽²⁾ (civil penalties) applies to a trustee who fails to comply with the notice.

(2) Section 10 was amended by paragraph 11 of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30), paragraphs 34 and 38 of Schedule 12 and Part 1 of Schedule 13 to the 2004 Act, section 62(3) of and paragraph 121 of Schedule 13 to the Tribunals, Courts and Enforcement Act 2007 (c. 15), paragraph 52 of Schedule 9 to the Crime and Courts Act 2013 (c. 22) and paragraph 1 of Schedule 7 to the 2021 Act.