EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the funding of occupational pension schemes to which Part 3 of the Pensions Act 2004 (c. 35) (scheme funding) applies. They implement the amendments to that Part made by Schedule 10 to the Pension Schemes Act 2021 (c. 1) (funding of defined benefit schemes).

Part 1 of these Regulations contains preliminary matters. In particular, it sets out (in regulation 2) where some of the key concepts used in the Regulations are defined and (in regulation 3) makes provision for review of regulations 4 to 19, pursuant to the requirement in section 28(2)(a) of the Small Business, Enterprise and Employment Act 2015 (c. 26) (duty to review regulatory provisions in secondary legislation).

Part 2 of these Regulations makes provision relating to the new requirement, in section 221A of the Pensions Act 2004 ("the 2004 Act") (funding and investment strategy), for schemes to have a funding and investment strategy.

Regulations 4 to 7 define the key concepts underlying how schemes must give effect to this requirement. In particular, regulation 4 sets out how the maturity of a scheme is to be measured and the meaning of "significant maturity" in relation to a scheme; regulation 5 sets out the meaning of "low dependency investment allocation" in relation to the assets of a scheme; regulation 6 sets out the meaning of "low dependency funding basis" in relation to the calculation of the liabilities of a scheme; and regulation 7 sets out the meaning of "strength of the employer covenant" and how it is assessed.

Regulation 8 sets out how the "relevant date" is to be determined.

Regulation 9 sets out the actuarial methods and assumptions to be used for the purposes of specifying the funding level the trustees and managers intend the scheme to have achieved as at the relevant date. In particular, the liabilities of the scheme for this purpose must be calculated on a low dependency funding basis.

Regulation 10 ensures that when, in determining or revising a scheme's funding and investment strategy, the trustees or managers of a scheme are required to use actuarial assumptions in the calculation of the liabilities of a scheme on a low dependency funding basis and the duration of liabilities measure, the trustees or managers must choose either the same set of assumptions or, in relation to the economic assumptions in a calculation of the duration of liabilities measure, the same methodology as is used for calculating the other assumptions.

Regulation 11 introduces Schedule 1 which sets out matters the trustees or managers must take into account, and principles they must follow, in determining or revising the scheme's funding and investment strategy. The matters in Schedule 1 relate to estimates in relation to scheme maturity by the actuary appointed by the trustees or managers, and investment risk on and after the relevant date. The principles in Schedule 1 make provision regarding the minimum requirements that a scheme is subject to on and after the relevant date; the level of risk that can be taken in relation to the calculation of the liabilities of the scheme as it moves towards that date; and the liquidity of the assets of the scheme.

Regulation 12 makes provision regarding the level of detail required in a funding and investment strategy.

Regulation 13 sets out the period within which a funding and investment strategy must be determined and subsequently reviewed and revised.

Part 3 of these Regulations makes provision regarding the statement of strategy. The statement of strategy is prepared by the trustees or managers of a scheme under section 221B of the 2004 Act (statement of strategy). It consists of two parts: Part 1 is a written statement of the funding and investment strategy, and Part 2 is a written statement of supplementary matters.

Regulation 14 introduces Schedule 2 which sets out supplementary matters to be included in Part 2 of the statement of strategy, in addition to those required by section 221B of the 2004 Act.

Regulation 15 sets out the period within which Part 2 of a statement of strategy must be reviewed and revised.

Regulation 16 sets out requirements to be met by the person who is the chair of the trustees who is required by section 221B(6) of the 2004 Act to sign the statement of strategy.

Regulation 17 makes provision regarding the level of detail required in Part 2 of a statement of strategy.

Regulation 18 makes provision regarding the form of the statement of strategy. Regulation 19 makes provision for when the trustees or managers shall send the statement of strategy to the Regulator.

Part 4 of these Regulations amends the Occupational Pension Schemes (Scheme Funding) Regulations 2005 (S.I. 2005/3377). The amendments made by regulation 20(2), (3) and (5) are to take account of the new requirements relating to funding and investment strategies. In particular, they make provision for additional matters to be included in an actuarial valuation. The amendments made by regulation 20(4) make provision for determining whether a recovery plan is appropriate having regard to the nature and circumstances of the scheme.

An impact assessment has been carried out as part of the enactment of the measures in the Pension Schemes Act 2021 and has been published alongside the Pension Schemes Act 2021 at www.legislation.gov.uk. Paper copies can be obtained from the Department for Work and Pensions, First Floor, Caxton House, Tothill Street, London SW1H 9NA.