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STATUTORY INSTRUMENTS

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**1996 No. 1715**

**PENSIONS**

**The Occupational Pension Schemes  
(Scheme Administration) Regulations 1996**

<i>Made</i>	- - - -	<i>2nd July 1996</i>
<i>Laid before Parliament</i>		<i>5th July 1996</i>
<i>Coming into force</i>	- -	<i>6th April 1997</i>

The Secretary of State for Social Security in exercise of powers conferred on him by sections 27(3) and (5), 32(2) and (3), 47(3), (5), (6) and (9), 49(1), (2), (4), (5) and (8), 87(1), (2) and (3), 88(1), 124(1) and 174(2) and (3) of the Pensions Act 1995<sup>M1</sup>, and of all other powers enabling him in that behalf, by this instrument, which is made before the end of the period of six months beginning with the coming into force of the provisions of Part I of that Act by virtue of which they are made<sup>M2</sup>, hereby makes the following regulations:

**Marginal Citations**

- M1** 1995 c.26. Section 124(1) is cited because of the meaning ascribed to “prescribed” and “regulations”.
- M2** See section 120(2)(c) of the Pensions Act 1995. This provides that the requirement to consult does not apply where regulations are made before the end of six months beginning with the coming into force of the provisions of Part I of the Pensions Act 1995 by virtue of which they are made.

**PART I** **E+W+S**

**INTRODUCTION**

**Citation, commencement and interpretation** **E+W+S**

**1.—(1)** These Regulations may be cited as the Occupational Pension Schemes (Scheme Administration) Regulations 1996 and shall come into force on 6th April 1997.

<sup>F1</sup>(2) In these Regulations—

“the 1995 Act” means the Pensions Act 1995;

[<sup>F2</sup>“the 2004 Act” means the Pensions Act 2004;]

“the Taxes Act” means the Income and Corporation Taxes Act 1988 <sup>M3</sup>;

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: There are currently no known outstanding effects for the The Occupational Pension Schemes (Scheme Administration) Regulations 1996. (See end of Document for details)*

F3  
...

“business days” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a bank holiday within the meaning of the Banking and Financial Dealings Act 1971 <sup>M4</sup>;

[<sup>F4</sup>“chair” means—

- (a) the person appointed as chair of the trustees or managers of a relevant scheme, in accordance with regulation 22;
- (b) the person appointed as chair of the trustees of a relevant scheme by someone other than the trustees, in accordance with the trust deed or scheme rules; or
- (c) in the case of a scheme established under section 67 of the Pensions Act 2008 (duty to establish a pension scheme), the person appointed as chair of the trustee corporation established under section 75 of that Act (trustee corporation);]

[<sup>F5</sup>“insurance policy” means a contract of a kind referred to in [<sup>F6</sup>Article 2(3) of the Solvency 2 Directive, but excluding a contract of a kind referred to in Article 2(3)(b)(iii) or (iv) of that Directive];]

F7  
...

[<sup>F8</sup>“money purchase benefits” has the same meaning as in section 181(1) of the Pension Schemes Act 1993;

“money purchase scheme” means a pension scheme under which all the benefits that may be provided other than death benefits are money purchase benefits;]

F9  
...

[<sup>F4</sup>“professional trustee body” means a body which—

- (a) was not established by an employer in relation to the scheme;
- (b) is remunerated for its services as a trustee by one or more schemes;
- (c) has arranged a policy of indemnity insurance in relation to the exercise of its functions as a trustee of the scheme; and
- (d) is carrying out its functions as a trustee of the scheme in the ordinary course of a profession or business which consists of, or includes, providing and holding itself out as providing services in connection with the management or administration of trusts or any particular aspect of such management or administration, whether or not such services relate to a particular kind of trust;]

“public service pension scheme” has the same meaning as in section 1 of the Pension Schemes Act 1993;

[<sup>F10</sup>“qualifying insurance policy” means an insurance policy issued by an insurer which is—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 (permission to carry on regulated activities) to effect or carry out contracts of long term insurance; or
- (b) an undertaking established in an EEA State (as defined in paragraph 8 of Schedule 3 to the Financial Services and Markets Act 2000) other than the United Kingdom, which is authorised by the competent authorities of that State to carry on the business of direct insurance for the class of assurance as listed in [<sup>F11</sup> Annex II of the Solvency 2 Directive] in which the insurance policy falls;]

[<sup>F12</sup>“registered scheme” means a scheme which, on or after 6th April 2006, is registered in accordance with section 153 of the Finance Act 2004 (registration of pension schemes);]

[<sup>F13</sup>“relevant benefits” has the meaning given in section 393B of the Income Tax (Earnings and Pensions) Act 2003 (relevant benefits);]

[<sup>F14</sup> “relevant multi-employer scheme” means a relevant scheme [<sup>F15</sup> which is or has been] promoted as a scheme where participating employers need not be connected employers, except where—

- (a) the scheme has distinct sections relating to employers which are not connected employers and each of those sections is governed by different trustees or managers (or, where the scheme does not currently have participating employers which are not connected employers, it will have such sections when there are participating employers which are not connected employers); [<sup>F16</sup>or]
- (b) the scheme is established under section 67 of the Pensions Act 2008; <sup>F17</sup>...
- (c) <sup>F17</sup> ...]

[<sup>F18</sup> “relevant scheme” means an occupational pension scheme which provides money purchase benefits other than—

- (a) an executive pension scheme;
- (b) a relevant small scheme;
- (c) a scheme that does not fall within paragraph 1 of Schedule 1 (description of schemes) to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013;
- (d) a public service pension scheme which—
  - (i) falls within regulation 4(2) of those Regulations (limitations on application to certain public service pension schemes); or
  - (ii) does not fall within regulation 4(2) of those Regulations but is a public service pension scheme within the meaning of the 2004 Act; or
- (e) a scheme which provides no money purchase benefits other than benefits which are attributable to additional voluntary contributions;]

<sup>F19</sup> ...

“relevant statutory scheme” has the same meaning as in section 611A of the Taxes Act(5); <sup>M5</sup>

“scheme year” means—

- (a) a year specified for the purposes of the scheme in any document comprising the scheme or, if none, a period of 12 months commencing on 1st April or on such date as the trustees or managers select; or
- (b) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees or managers in connection with—
  - (i) the commencement or termination of the scheme, or
  - (ii) a variation of the date on which the year or period referred to in paragraph (a) is to commence;

[<sup>F20</sup> “the Solvency 2 Directive” means [Directive 2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II ); ]

[<sup>F21</sup> “specified qualifying insurance policy” means a qualifying insurance policy which is a contract falling within paragraph I or III of Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (contracts of insurance);]

<sup>F22</sup> ...

<sup>F23</sup> ...

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*Status: Point in time view as at 06/04/2016.*

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“unfunded occupational pension scheme” means an occupational pension scheme under which there is no requirement to set aside in advance resources related to the intended rate or amount of benefits; and

F1

[<sup>F24</sup>“wholly insured scheme” means a trust scheme, other than a stakeholder pension scheme within the meaning of section 1 of the Welfare Reform and Pensions Act 1999, (meaning of “stakeholder pension scheme”), which has no investments other than specified qualifying insurance policies.]

[<sup>F25</sup>(2ZA) For the purposes of the definition of “relevant multi-employer scheme”, a participating employer is “connected” to another employer where either of the following conditions is satisfied—

- (a) the first condition is that both employers—
  - (i) are or have been part of the same group of companies consisting of one or more holding companies and subsidiaries of any such companies within the meaning of section 1159(1) of the Companies Act 2006 (meaning of “subsidiary” etc. ); or
  - (ii) are or have been partnerships, each having the same persons as at least half of its partners;
- (b) the second condition is that the participating employer which is not a company within the group referred to in paragraph (a)(i)—
  - (i) forms or formed a joint venture with that other employer within the group;
  - (ii) jointly employs or employed members of the scheme with that other employer within the group;
  - (iii) employs active members of the scheme following a transfer from that other employer within the group;
  - (iv) holds, held, controls or controlled at least 20% of the voting power in that other employer within the group; or
  - (v) is or was an employer 20% of whose voting power is or was held or controlled by that other employer within the group.]

[<sup>F26</sup>(2ZB) For the purposes of the definition of “relevant scheme”—

“executive pension scheme” means a scheme—

- (a) in relation to which a company is the only employer and the sole trustee; and
- (b) the members of which are either current or former directors of the company and include at least one third of the current directors;

“relevant small scheme” means a scheme with fewer than 12 members, where—

- (a) all the members are trustees of the scheme and either—
  - (i) the provisions of the scheme provide that any decision made by the trustees is made by the unanimous agreement of the trustees who are members of the scheme; or
  - (ii) the scheme has a trustee who is independent in relation to the scheme for the purposes of section 23 of the 1995 Act (power to appoint independent trustees), and is registered in the register maintained by the Authority (as defined in that Act) in accordance with regulations made under subsection (4) of that section; or
- (b) all the members are directors of a company which is the sole trustee of the scheme and either—
  - (i) the provisions of the scheme provide that any decision made by the company in its capacity as a trustee is made by the unanimous agreement of the directors who are members of the scheme; or

- (ii) one of the directors of the company is independent in relation to the scheme for the purposes of section 23 of the 1995 Act and is registered in the register maintained by the Authority (as defined in that Act) in accordance with regulations maintained under subsection (4) of that that section.]

[<sup>F27</sup>(2A) For the purposes of the definition of “wholly insured scheme”, “investments” shall not include—

- (a) cash held on deposit by the trustees or managers pending payment to the insurer or to members of the scheme;
  - (b) cash held on deposit by the trustees or managers to meet accrued liabilities or administrative expenses; or
  - (c) any investments arising from voluntary contributions.]
- (3) In these Regulations, unless the context otherwise requires, a reference—
- (a) to a numbered regulation is to the regulation bearing that number in these Regulations;
  - (b) in a regulation to a numbered paragraph is to the paragraph bearing that number in that regulation.

#### Textual Amendments

- F1** Words in reg. 1(2) substituted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2), **3(2)**
- F2** Words in reg. 1(2) inserted (30.12.2005) by [The Occupational Pension Schemes \(Scheme Funding\) Regulations 2005 \(S.I. 2005/3377\)](#), regs. 1, 20(1), **Sch. 3 para. 4(2)**
- F3** Words in reg. 1(2) omitted (6.4.2006) by virtue of [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(2)(a)(i)**
- F4** Words in reg. 1(2) inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), reg. 1(2), **16(1)(a)**
- F5** Words in reg. 1(2) inserted (6.4.2006) by [Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/778\)](#), reg. 1(1)(a), **4(2)(a)**
- F6** Words in reg. 1(2) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 2 para. 6(2)(c)**
- F7** Words in reg. 1(2) omitted (1.1.2016) by virtue of [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 2 para. 6(2)(a)**
- F8** Words in reg. 1(2) substituted (6.4.1997) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/786\)](#), reg. 1**Sch. 1 para. 11(2)(a)**
- F9** Words in reg. 1(2) omitted (6.4.2006) by virtue of [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(2)(a)(ii)**
- F10** Words in reg. 1(2) inserted (6.4.06) [S.I. 2006/778](#), **reg. 1(2)**, 4(2)(b)
- F11** Words in reg. 1(2) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 2 para. 6(2)(d)**
- F12** Words in reg. 1(2) inserted (6.4.2006) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(2)(b)**
- F13** Words in reg. 1(2) substituted (6.4.2006) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(2)(c)**
- F14** Words in reg. 1(2) inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), reg. 1(2), **21(a)**
- F15** Words in reg. 1(2) substituted (6.4.2016) by [The Occupational Pension Schemes \(Scheme Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/427\)](#), regs. 1, **3**
- F16** Word in reg. 1(2) inserted (6.4.2016) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), reg. 1(3), **23(a)**

**Status:** Point in time view as at 06/04/2016.

**Changes to legislation:** There are currently no known outstanding effects for the The Occupational Pension Schemes (Scheme Administration) Regulations 1996. (See end of Document for details)

- F17** Words in reg. 1(2) omitted (6.4.2016) by virtue of The Occupational Pension Schemes (Charges and Governance) Regulations 2015 (S.I. 2015/879), regs. 1(3), **23(b)**
- F18** Words in reg. 1(2) inserted (6.4.2015) by The Occupational Pension Schemes (Charges and Governance) Regulations 2015 (S.I. 2015/879), regs. 1(2), **14(a)**
- F19** Words in reg. 1(2) omitted (6.4.2006) by virtue of Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2)(c), **4(2)(a)(iv)**
- F20** Words in reg. 1(2) inserted (1.1.2016) by The Solvency 2 Regulations 2015 (S.I. 2015/575), reg. 1(2), **Sch. 2 para. 6(2)(b)**
- F21** Words in reg. 1(2) inserted (6.4.06) by S.I. 2006/778, **reg. 1, 4(2)(c)**
- F22** Words in reg. 1(2) omitted (6.4.2006) by virtue of Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2)(c), **4(2)(a)(v)**
- F23** Words in reg. 1(2) omitted (6.4.2006) by virtue of Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2)(c), **4(2)(a)(iii)**
- F24** Words in reg. 1(2) substituted (6.4.2006) by Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/778), regs. 1(1)(a), **4(2)(d)**
- F25** Reg. 1(2ZA) substituted (6.4.2016) by The Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016 (S.I. 2016/427), regs. 1, **4**
- F26** Reg. 1(2ZB) inserted (6.4.2015) by The Occupational Pension Schemes (Charges and Governance) Regulations 2015 (S.I. 2015/879), regs. 1(2), **14(b)**
- F27** Reg. 1(2A) inserted (6.4.2006) by Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/778), regs. 1(1)(a), **4(2)(e)**

#### Modifications etc. (not altering text)

- C1** Reg. 1 applied (1.10.2000) by The Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403), regs. 1(2), 32, **Sch. 2**

#### Marginal Citations

- M3** 1988 c.1 .
- M4** 1971 c.80 .
- M5** Section 611A was inserted by paragraph 15 of Schedule 6 to the Finance Act 1989.

## PART II **E+W+S**

### [<sup>F28</sup>Advisers and Service Providers]

#### Textual Amendments

- F28** Pt. 2 heading substituted (6.4.2015) by The Occupational Pension Schemes (Charges and Governance) Regulations 2015 (S.I. 2015/879), regs. 1(2), **15(a)**

#### Appointment of professional advisers by trustees or managers **E+W+S**

2. For the purposes of section 47(3) of the 1995 Act (legal advisers, fund managers, and persons exercising prescribed functions in relation to the scheme to be appointed by the trustees or managers) the prescribed functions are—

- (a) the examination of, and the expression of an opinion on, the financial statements and accounts of the scheme and any other matter relating to the audit of the scheme;
- (b) the provision of advice on financial questions relating to the funding of, and assets of, the scheme and on questions in respect of probabilities relating to mortality and other contingencies, and any other matter relating to the actuarial affairs of the scheme;

- (c) the custody of cash, securities and any other documents of title to scheme assets.

**Exemptions from the professional advisers requirements E+W+S**

3.—(1) Section 47(1)(a) of the 1995 Act (for every occupational pension scheme there shall be an individual, or a firm, appointed by the trustees or managers as auditor) does not apply to—

- [<sup>F29</sup>(a) a scheme which is—
  - (i) provided for, or by, or under an enactment (including a local Act); [<sup>F30</sup>and]
  - (ii) guaranteed by a Minister of the Crown or other public authority.]
- <sup>F31</sup>(b) .....
- [<sup>F32</sup>(c) an occupational pension scheme which provides relevant benefits and which on or after 6th April 2006 is not a registered scheme;]
- <sup>F33</sup>(d) .....
- (e) unfunded occupational pension schemes;
- (f) occupational pension schemes with less than 2 members;
- <sup>F34</sup>(g) .....
- [<sup>F35</sup>(h) a scheme—
  - (i) with fewer than 12 members where all the members are trustees of the scheme and either—
    - (aa) the provisions of the scheme provide that all decisions which fall to be made by the trustees are made by unanimous agreement by the trustees who are members of the scheme; or
    - (bb) the scheme has a trustee who is independent in relation to the scheme for the purposes of section 23 of the 1995 Act (power to appoint independent trustees), and is registered in the register maintained by the Authority in accordance with regulations made under subsection (4) of that section; or
  - (ii) with fewer than 12 members where all the members are directors of a company which is the sole trustee of the scheme, and either—
    - (aa) the provisions of the scheme provide that any decisions made by the company in its capacity as trustee are made by the unanimous agreement of all the directors who are members of the scheme; or
    - (bb) one of the directors of the company is independent in relation to the scheme for the purposes of section 23 of the 1995 Act, and is registered in the register maintained by the Authority in accordance with regulations made under subsection (4) of that section;]
- <sup>F36</sup>(hh) .....
- (i) occupational pension schemes with a superannuation fund such as is mentioned in section 615(6) of the Taxes Act;
- <sup>F37</sup>(j) .....
- <sup>F38</sup>(k) .....
- <sup>F39</sup>(l) .....
- [<sup>F40</sup>(m) the AWE Pension Scheme established by a deed made on 29th March 1993;] and
- <sup>F41</sup>(n) .....

[<sup>F42</sup>(o) the Babcock Naval Services Pension Scheme, established by a deed made on 29th August 2002.]

<sup>F43</sup>(2) Section 47(1)(b) of the 1995 Act (for every occupational pension scheme there shall be an individual appointed by the trustees or managers as actuary) does not apply to—

(a) money purchase schemes;

[<sup>F43</sup>(b) schemes mentioned in—

(i) paragraph (1)(a), [<sup>F44</sup> (e) to ] (f), <sup>F45</sup> ..., (m) and (o); or

(ii) paragraph (1)(c) or (i) where these schemes have fewer than 100 members.]

(3) Section 47(2) of the 1995 Act (for every occupational pension scheme the assets of which consist of or include investments <sup>F46</sup>... there shall be an individual or a firm appointed by or on behalf of the trustees or managers as fund manager) does not apply to—

[<sup>F47</sup>(a) relevant schemes of a kind mentioned in paragraph (4) of regulation 4 of the Financial Services and Markets Act 2000 (Carrying on Regulated Activities by Way of Business) Order 2001 (Managing investments: occupational pension schemes);]

(b) wholly insured schemes; and

(c) schemes mentioned in [<sup>F48</sup> paragraph (1)(a) to (f) and (i)].

(4) Section 47(3) of the 1995 Act (legal advisers, fund managers, and persons exercising prescribed functions in relation to the scheme to be appointed by the trustees or managers) does not apply to schemes mentioned in [<sup>F48</sup> paragraph (1)(a) to (f) and (i)].

[<sup>F49</sup>(5) Subject to paragraph (6), where the trustees or managers of a scheme appoint a custodian on terms—

(a) which allow the custodian to use the services of an appointed person; and

(b) which—

(i) in the case of a custodian appointed before the relevant date, set out in writing, or

(ii) in the case of a custodian appointed on or after the relevant date, specify that, before taking up the appointment the custodian must disclose in writing to the trustees or managers,

whether, and if so, the extent to which the custodian accepts liability in respect of functions exercised or exercisable on his behalf by an appointed person; and

(c) which require that, immediately upon any subsequent change in the extent of the liability accepted by the custodian in respect of functions exercised or exercisable on his behalf by an appointed person, the custodian must disclose in writing to the trustees or managers whether and, if so, the extent to which his liability has changed,

section 47(3) of the 1995 Act shall not apply with respect to any reliance placed on the skill or judgement of the appointed person in the exercise of any of the functions given to the appointed person.

( 6 ) In a case where—

(a) sub-paragraph (b)(ii) of paragraph (5) applies; or

(b) there has been a change of a kind mentioned in sub-paragraph (c) of that paragraph,

section 47(3) of the 1995 Act shall not be disapplied by virtue of that paragraph unless the custodian has made the disclosure required by that sub-paragraph (b)(ii) or, as the case may be, that sub-paragraph (c).

( 7 ) In paragraphs (5) and (6)—



“appointed person” means any person appointed by a custodian, or by any other person empowered by the terms of his own appointment to appoint another person, to exercise any of the functions given to the custodian;

“custodian” means a person appointed by the trustees or managers to exercise any of the functions set out in regulation 2(c) of these Regulations (custody of cash, securities, etc ); and

“relevant date” means 22nd July 1998.]

### Textual Amendments

- F29** Reg. 3(1)(a) substituted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **3(3)(a)**
- F30** Word in reg. 3(1)(a)(i) inserted (6.4.2011) by The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2011 (S.I. 2011/672), regs. 1(2)(b), **5**
- F31** Reg. 3(1)(b) omitted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by virtue of Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **3(3)(g)**
- F32** Reg. 3(1)(c) substituted (6.4.2006) by Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2)(c), **4(3)(a)**
- F33** Reg. 3(1)(d) omitted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by virtue of Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **3(3)(g)**
- F34** Reg. 3(1)(g) omitted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by virtue of Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **3(3)(g)**
- F35** Reg. 3(1)(h) substituted (6.4.2006) by Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2)(c), **4(3)(b)**
- F36** Reg. 3(1)(hh) omitted (6.4.2006) by virtue of Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2)(c), **4(3)(c)**
- F37** Reg. 3(1)(j) omitted (6.4.2010) by virtue of The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/499), regs. 1, **3(2)(a)**
- F38** Reg. 3(1)(k) omitted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by virtue of Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **3(3)(g)**
- F39** Reg. 3(1)(l) omitted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by virtue of Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **3(3)(g)**
- F40** Reg. 3(1)(m) substituted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **3(3)(e)**
- F41** Reg. 3(1)(n) omitted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by virtue of Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **3(3)(g)**
- F42** Reg. 3(1)(o) inserted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **3(3)(f)**
- F43** Reg. 3(2)(b) substituted for reg. 3(2)(b)(c) (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **3(4)(a)**
- F44** Words in reg. 3(2)(b)(i) substituted (6.4.2006) by Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2006 (S.I. 2006/778), regs. 1(1)(a), **4(3)**

**Status:** Point in time view as at 06/04/2016.

**Changes to legislation:** There are currently no known outstanding effects for the The Occupational Pension Schemes (Scheme Administration) Regulations 1996. (See end of Document for details)

- F45** Word in reg. 3(2)(b)(i) omitted (6.4.2010) by virtue of The Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/499), regs. 1, **3(2)(b)**
- F46** Words in reg. 3(3) revoked (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **528(a)**, reg. 1
- F47** Reg. 3(3)(a) substituted (1.12.2001) by The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), arts. 1, **528(b)**, reg. 1
- F48** Words in reg. 3(3)(c) and 3(4) substituted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Occupational Pension Schemes (Administration and Audited Accounts) (Amendment) Regulations 2005 (S.I. 2005/2426), regs. 1(2), **3(5)**
- F49** Reg. 3(5) added (22.7.1998) by The Occupational Pension Schemes (Scheme Administration) Amendment Regulations 1998 (S.I. 1998/1494), regs. 1, **2**

#### Modifications etc. (not altering text)

- C2** Reg. 3(2)(a) applied (1.10.2000) by The Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403), regs. 1(2), 32, **Sch. 2**
- C3** Reg. 3(2)(a) applied (24.7.2014) by The Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014 (S.I. 2014/1711), regs. 1(1), **40(2)(a)** (with regs. 6, 41, 44(1), 47(1), 69(2), 72(1), 76(1))
- C4** Reg. 3(3) applied (1.10.2000) by The Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403), regs. 1(2), 32, **Sch. 2**
- C5** Reg. 3(3)(c) excluded by SI 1993/3253 Sch. 1 para. 8 (as substituted (1.4.2001) by The Parliamentary Pensions (Amendment) Regulations 2001 (S.I. 2001/835), regs. 1(1), **2(2)**)
- C6** Reg. 3(5)-(7) applied (1.10.2000) by The Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403), regs. 1(2), 32, **Sch. 2**

#### Qualifications and experience or approval required for appointment as the auditor or actuary **E+W+S**

4.—(1) For the purposes of section 47(5)(b) of the 1995 Act the qualifications and experience or approval required for appointment as—

- (a) the auditor, subject to paragraph (2), are—
- (i) those specified in section 25 of the Companies Act 1989 <sup>M6</sup>; or
  - (ii) approval by the Secretary of State;
- (b) the actuary are—
- <sup>F50</sup>(i) Fellowship of the Institute and Faculty of Actuaries; or]
  - (iii) approval by the Secretary of State.

(2) A person shall not be appointed as the auditor where—

- (a) he is a member of the scheme <sup>M7</sup>;
- (b) he is employed under a contract of service by the trustees or managers of the scheme;
- (c) he is an employer in relation to the scheme; or
- (d) <sup>F51</sup>subject to paragraph (3),] he is, by virtue of section 27 of the Companies Act 1989, ineligible to audit the accounts of a company which is an employer in relation to the scheme.

<sup>F52</sup>(3) Paragraph (2)(d) does not apply in relation to the accounts and auditor's statement for a relevant scheme for a scheme year—

- (a) in which, on the first day of that scheme year, the scheme has at least 500 participating employers; or

(b) which immediately precedes a scheme year in which sub-paragraph (a) is satisfied.

(4) In paragraph (3), “relevant scheme” means a trust scheme which applies to earners in employment under different employers.]

#### Textual Amendments

- F50** Regs. 4(1)(b)(i)(ii) substituted (6.4.2012) by [The Pensions \(Institute and Faculty of Actuaries and Consultation by Employers – Amendment\) Regulations 2012 \(S.I. 2012/692\)](#), regs. 1(2), **4**
- F51** Words in reg. 4(2)(d) inserted (6.4.2014) by [The Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/540\)](#), regs. 1, **2(2)(a)**
- F52** Reg. 4(3)(4) inserted (6.4.2014) by [The Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/540\)](#), regs. 1, **2(2)(b)**

#### Modifications etc. (not altering text)

- C7** Reg. 4(1) applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**
- C8** Reg. 4(2)(a)(b) applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

#### Marginal Citations

- M6** 1989 c.40.
- M7** See section 27 of the Pensions Act 1995 which provides that a trustee of a trust scheme, and any person connected with, or associate of such a trustee, is ineligible to act as auditor. See also regulation 7 of these Regulations.

### Manner and terms of appointment and removal of professional advisers **E+W+S**

5.—(1) An appointment of a professional adviser shall be made in writing (“the notice of appointment”) and shall specify—

- (a) the date the appointment is due to take effect;
- (b) to whom the professional adviser is to report; and
- (c) from whom the professional adviser is to take instructions.

(2) A person appointed as a professional adviser shall—

- (a) acknowledge in writing receipt of the notice of appointment within 1 month of receipt; and
- <sup>F53</sup>(b) <sup>F54</sup>(i) in the case of a fund manager, or a person carrying out functions referred to in regulation 2(c), who is subject to rules made under section 138 of the Financial Services and Markets Act 2000 (General rule making power) which impose requirements in relation to conflicts of interest, confirm in writing that he will notify the trustees or managers of any conflicts of interest to which he is or may be subject in relation to the scheme, in accordance with those requirements, and—
- (ii) in the case of any other professional adviser, confirm in writing that he will notify the trustees or managers of any conflict of interest to which he is subject in relation to the scheme immediately he becomes aware of its existence.]

(3) The resignation of a professional adviser shall be made by serving on the trustees or managers a notice of resignation in writing.

(4) The notice of resignation referred to in paragraph (3) shall, in the case of the auditor or actuary, contain either—

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*Changes to legislation: There are currently no known outstanding effects for the The Occupational Pension Schemes (Scheme Administration) Regulations 1996. (See end of Document for details)*

- (a) a statement by the auditor or actuary specifying any circumstances connected with the resignation which, in his opinion, significantly affect the interests of the members or prospective members of, or beneficiaries under, the scheme; or
- (b) a declaration by the auditor or actuary that he knows of no such circumstances as are referred to in sub-paragraph (a).
- (5) The resignation shall be effective from the date (if any) specified in the notice by the professional adviser as the date from which he wishes his resignation to be effective, or, if no date is specified, the date on which the trustees or managers receive the notice.
- (6) Trustees or managers wishing to remove a professional adviser shall do so by serving on him a notice in writing stating the date with effect from which his appointment terminates.
- (7) Where the auditor or actuary is removed in accordance with paragraph (6), he shall, within 14 days of receipt of the removal notice referred to in that paragraph, provide the trustees or managers with either—
- (a) a statement specifying any circumstances connected with the removal which, in his opinion, significantly affect the interests of the members or prospective members of, or beneficiaries under, the scheme; or
- (b) a declaration that he knows of no such circumstances as are referred to in sub-paragraph (a).
- (8) Where the auditor or actuary—
- (a) is removed by the trustees or managers,
- (b) resigns, or
- (c) dies,
- the trustees or managers shall appoint a replacement auditor or actuary (as the case may be) within 3 months from the date of the removal, resignation or death.
- (9) In a case where paragraph (8) applies, section 47(1)(a) (where the replacement is to be an auditor) or (b) (where the replacement is to be an actuary) of the 1995 Act shall not apply pending the appointment of the replacement.
- [<sup>F55</sup>(10) Where a statement or declaration is made in accordance with paragraph (4) or (7), the trustees or managers shall—
- (a) furnish the remaining auditor or actuary to the scheme with a copy of the statement or declaration no later than 14 days after the trustees or managers receive it; and
- (b) furnish the succeeding auditor or actuary with a copy of the statement or declaration—
- (i) no later than 14 days after the date on which the trustees or managers receive it; or
- (ii) no later than the date of the succeeding auditor's or actuary's appointment, whichever is the later.]
- (11) This regulation shall not apply in the case of an appointment of a person as a professional adviser to a scheme which falls within the description referred to in [<sup>F56</sup>regulation 3(1)(c) to (f) and (i)].

#### Textual Amendments

**F53** Reg. 5(2)(b) substituted (6.4.1997) by [The Occupational Pension Schemes \(Reference Scheme and Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/819\)](#), regs. 1(1), **5(a)**

**F54** Reg. 5(2)(b)(i) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **529**, reg. 1

- F55** Reg. 5(10) substituted (30.12.1999) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/3198\)](#), regs. 1(1), **10(2)**
- F56** Words in reg. 5(11) substituted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2), **3(6)**

**Modifications etc. (not altering text)**

- C9** Reg. 5(1)-(10) applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

**Duty to disclose information** **E+W+S**

- 6.—(1) It shall be the duty of any person—
- (a) who is the employer or has been the employer in relation to an occupational pension scheme and any person who acts as auditor or actuary to such a person, to disclose on request to the trustees or managers such information as is reasonably required for the performance of the duties of trustees or managers or professional advisers;
  - (b) who is the employer in relation to an occupational pension scheme within 1&4u;month of the occurrence, to disclose to the trustees or managers the occurrence of any event relating to the employer which there is reasonable cause to believe will be of material significance in the exercise by the trustees or managers or professional advisers of any of their functions.
- (2) The information referred to in paragraph (1)(a), in a case where the employer makes provision for the administration of the scheme, includes information in respect of who administers the scheme and the terms on which administrative services are provided.
- (3) It shall be the duty of the trustees or managers of an occupational pension scheme—
- (a) to disclose to the professional advisers such information as may reasonably be required for the performance of their duties; and
  - (b) to make available to the professional advisers such of the scheme's books, accounts and records, including any books and records which the trustees are required to keep under section 49(2) of the 1995 Act (receipts, payments and records), as may reasonably be required for the performance of their duties.
- <sup>F57</sup>(4) This regulation shall not apply in relation to an occupational pension scheme which falls within the description referred to in [<sup>F57</sup>regulation 3(1)(c) to (f) and (i)].

**Textual Amendments**

- F57** Words in reg. 6(4) substituted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2), **3(6)**

**Modifications etc. (not altering text)**

- C10** Reg. 6(3) applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

**[<sup>F58</sup>Appointment of service providers in respect of relevant schemes** **E+W+S**

- 6A.** The trust deed or scheme rules must not contain a provision that—

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- (a) requires that the administrative, fund management, advisory or other services in respect of the scheme are provided by a person identified in any document; or
  - (b) restricts the choice of person who may be appointed to provide such services.
- (2) Paragraph (1) overrides any provision of a relevant scheme to the extent that it conflicts with that paragraph.
- (3) In relation to a relevant scheme which is not a money purchase scheme, this regulation applies only in relation to services which are provided in connection with the provision of money purchase benefits.]

#### Textual Amendments

**F58** Reg. 6A inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **15(b)**

## PART III **E+W+S**

### TRUSTEES

#### CHAPTER I

#### TRUSTEES: GENERAL

#### Ineligibility to act as actuary or auditor **E+W+S**

7. For the purposes of section 27(3) of the 1995 Act (ineligibility of trustees and connected and associated persons to act as an auditor or actuary of the scheme: exceptions for persons of a prescribed class or description) the prescribed class or description is—

- (a) any person who is a director, partner or employee of a firm which provides, amongst other services, actuarial services and who would be ineligible under section 27(1) of the 1995 Act to be the actuary merely because another director, partner or employee of that firm is a trustee of the scheme;
- (b) any person—
  - (i) who is a director, partner or employee of a firm which provides, amongst other services, actuarial services; and
  - (ii) who is not a director of the company which is a trustee of the scheme,

and who would be ineligible under section 27(1) of the 1995 Act to be the actuary merely because he is an associate of the company which is the trustee of the scheme by virtue of section 435(4), (6) and (7) of the Insolvency Act 1986 <sup>M8</sup>;

- (c) any person who would be ineligible under section 27(1) of the 1995 Act to act as the auditor or the actuary merely because he falls within the description of associate as specified in [<sup>F59</sup>section 435(2) of the Insolvency Act 1986; and<sup>?</sup>];
- [<sup>F60</sup>(d) in the case where a person is an associate of any person with whom he is in partnership, the husband[<sup>F61</sup>, wife or civil partner] or a relative of any individual with whom he is in partnership.]

#### Textual Amendments

- F59** Words in reg. 7(c) substituted (6.4.1997) by [The Occupational Pension Schemes \(Reference Scheme and Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/819\)](#), regs. 1(1), **5(b)(i)**
- F60** Reg. 7(d) inserted (6.4.1997) by [The Occupational Pension Schemes \(Reference Scheme and Miscellaneous Amendments\) Regulations 1997 \(S.I. 1997/819\)](#), regs. 1(1), **5(b)(ii)**
- F61** Words in reg. 7(d) substituted (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential Provisions\) Order 2014 \(S.I. 2014/107\)](#), art. 1(2), **Sch. 1 para. 19**

#### Modifications etc. (not altering text)

- C11** Regs. 7-11 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

#### Marginal Citations

- M8** 1986 c.45.

### Meaning of trustee of a trust scheme **E+W+S**

**8.** For the purposes of section 27(5) of the 1995 Act (references to sections 27 and 28 of the 1995 Act to a trustee of a trust scheme do not include a trustee, or a trustee of a scheme falling within a prescribed class or description) the prescribed class or description is [<sup>F62</sup>a trustee who is a trustee in relation to a scheme to which regulation 3(1)(h)(i)(bb) or (ii)(bb) applies (exemptions from the professional advisers requirements)].

#### Textual Amendments

- F62** Words in reg. 8 substituted (6.4.2006) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(4)**

#### Modifications etc. (not altering text)

- C11** Regs. 7-11 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

## CHAPTER II

### FUNCTIONS OF TRUSTEES

### Exemption from the requirement to give notice of an occasion when a specified number of trustees must be present for a decision **E+W+S**

**9.** For the purposes of section 32(2)(b) of the 1995 Act (notice of any occasion at which decisions may be taken by a majority to be given to each trustee unless the occasion falls within a prescribed class or description) the prescribed class or description is an occasion on which it is necessary as a matter of urgency to make a decision.

#### Modifications etc. (not altering text)

- C11** Regs. 7-11 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

**Manner of, and time for giving, notice when a specified number of trustees must be present for a decision** **E+W+S**

10. For the purposes of section 32(3) of the 1995 Act (notice to be given in a prescribed manner and no later than the beginning of a prescribed period) the prescribed manner and period are that the notice of the occasion must, unless the trustees agree otherwise,—

- (a) specify the date, time and place of the occasion; and
- (b) be sent to the last known address of each trustee no later than 10 business days before the occasion.

**Modifications etc. (not altering text)**

**C11** Regs. 7-11 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

*CHAPTER III**RECEIPTS, PAYMENTS AND RECORDS***Exemption from the requirement for money to be kept by the trustees** **E+W+S**

11.—(1) For the purposes of section 49(1) of the 1995 Act (trustees of any trust scheme must, except in any prescribed circumstances, keep money received in a separate account [<sup>F63</sup>with a deposit-taker]) the prescribed circumstances are—

- (a) where the trustees have entered into an arrangement or contract with a person to the effect that the money is to be paid into a [<sup>F64</sup>an] account held by that person; [<sup>F65</sup>and separate from one held by or on behalf of the employer as employer] and
    - (i) it is a condition of that arrangement or contract that a record by that person shall be kept of the information referred to in paragraph (2) and such records should be retained for a period of at least 6 years; and
    - (ii) any interest earned on the account shall be credited to the scheme in respect of which the money is deposited;
  - (b) where the trustees have [<sup>F66</sup>an account.
    - [<sup>F67</sup>(i) kept by them with any of the persons specified in paragraph (3);]
    - (ii) separate from one held by or on behalf of the employer as employer; and
    - (iii) in which the money received by them is to be held.]
- (2) The information referred to in paragraph (1)(a)(i) is the—
- (a) amount of money paid into the account, the date of payment and from whom it was received;
  - (b) amount of money paid out of the account, the date of withdrawal and to whom payment was made; and
  - (c) interest earned on the account of each scheme in respect of which money is deposited.
- [<sup>F68</sup>(3) The persons referred to in paragraph (1)(b)(i) are—
- (a) the Bank of England or the central bank of another EEA State;
  - (b) the National Savings Bank; or
  - (c) a municipal bank.



- (4) In paragraph (3)—
- (a) “EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May 1992 as it has effect for the time being; and
  - (b) “municipal bank” means a company within the meaning of the Companies Act 1985—
    - (i) in respect of which a resolution has been passed by a local authority under section 48(3) of the Banking Act 1979 or section 103(3) of the Banking Act 1987; and
    - (ii) is exempt from the prohibition imposed by section 19 of the Financial Services and Markets Act 2000 in relation to the acceptance of deposits;
  - (c) the definition of “municipal bank” above must be read with—
    - (i) section 22 of the Financial Services and Markets Act 2000,
    - (ii) any relevant order under that section, and
    - (iii) Schedule 2 to that Act.]

#### Textual Amendments

- F63** Words in reg. 11(1) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **530(2)**, reg. 1
- F64** Word in reg. 11(1)(a) substituted (30.12.1999) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/3198\)](#), regs. 1(1), **10(3)(a)(i)**
- F65** Words in reg. 11(1)(a) inserted (30.12.1999) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/3198\)](#), regs. 1(1), **10(3)(a)(ii)**
- F66** Words in reg. 11(1)(b) substituted (30.12.1999) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/3198\)](#), regs. 1(1), **10(3)(b)**
- F67** Reg. 11(1)(b)(i) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **530(3)**, reg. 1
- F68** Reg. 11(3) - Reg. 11(4) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **530(4)**, reg. 1

#### Modifications etc. (not altering text)

- C11** Regs. 7-11 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

### Requirement for trustees to keep books and records **E+W+S**

- 12.**—(1) Trustees of any trust scheme shall keep—
- (a) records of their meetings (including meetings of any of their number) in accordance with regulation 13; and
  - (b) books and records relating to any of the following transactions—
    - (i) any amount received in respect of any contribution payable in respect of an active member of the scheme;
    - (ii) the date on which a member joins the scheme;
    - (iii) payments of pensions and benefits;
    - (iv) payments made by or on behalf of the trustees to any person including a professional adviser and such records to include the name and address of the person to whom payment was made and the reason for that payment;

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- (v) any movement or transfer of assets from the trustees to any person including a professional adviser and such records to include the name and address of the person to whom the assets were moved or transferred and the reason for that transaction;
- (vi) the receipt or payment of money or assets in respect of the transfer of members into or out of the scheme and such records to include, in the case of a member who has transferred into the scheme, the name of that member, the terms of the transfer, the name of the transferring scheme, the date of the transfer and date of receipt or payment of money or assets, and, in the case of a member who has transferred out of the scheme, the name of that member, the terms of the transfer, the name of the scheme transferred to, the date of the transfer, and the date of receipt or payment of money or assets;

<sup>F69</sup>(vii) . . . . .

- (viii) payments made to a member who leaves the scheme, other than on a transfer, and such records to include the name of that member, the date of leaving, the member's entitlement at that date, the method used for calculating any entitlement under the scheme and how that entitlement was discharged;
- (ix) payments made to the employer; and
- (x) other payments to, and withdrawals from, the scheme, including the name and address of the person the payment was made to or from whom it was received.

(2) This regulation shall not apply in the case of a trust scheme which falls within the descriptions referred to in regulation 3(1)(c), (f), (g) and (i) <sup>F70</sup>....

[<sup>F71</sup>(3) This regulation shall not apply in the case of a trust scheme which falls within the description referred to in—

- (a) regulation 3(1)(f);
- (b) regulation 3(1)(c) or (i) where any such scheme has fewer than 100 members; <sup>F72</sup> ...

<sup>F73</sup>(c)] . . . . .

**Textual Amendments**

- F69** Reg. 12(1)(b)(vii) omitted (6.4.2012) by virtue of [The Pensions Act 2008 \(Abolition of Protected Rights\) \(Consequential Amendments\) Order 2011 \(S.I. 2011/1246\)](#), arts. 1(2)(a), **13**
- F70** Words in reg. 12(2) revoked (6.4.2006) by [Occupational Pension Schemes \(Republic of Ireland Schemes Exemption \(Revocation\) and Tax Exempt Schemes \(Miscellaneous Amendments\)\) Regulations 2006 \(S.I. 2006/467\)](#), regs. 1(3), 10, **Sch.**
- F71** Reg. 12(3) added (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2), **3(7)**
- F72** Word in reg. 12(3)(b) revoked (6.4.2006) by [Occupational Pension Schemes \(Republic of Ireland Schemes Exemption \(Revocation\) and Tax Exempt Schemes \(Miscellaneous Amendments\)\) Regulations 2006 \(S.I. 2006/467\)](#), regs. 1(3), 10, **Sch.**
- F73** Reg. 12(3)(c) revoked (6.4.2006) by [Occupational Pension Schemes \(Republic of Ireland Schemes Exemption \(Revocation\) and Tax Exempt Schemes \(Miscellaneous Amendments\)\) Regulations 2006 \(S.I. 2006/467\)](#), regs. 1(3), 10, **Sch.**

**Modifications etc. (not altering text)**

- C12** Reg. 12(1) applied in part (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

**Records of trustees' meetings** E+W+S

13.—(1) For the purposes of section 49(4) of the 1995 Act (books and records to be kept in a prescribed form and manner) the prescribed form and manner in the case of records of the meetings of trustees of any trust scheme, is that the record must be in writing and state—

- (a) the date, time and place of the meeting;
- (b) the names of all the trustees invited to the meeting;
- (c) the names of the trustees who attended the meetings and those who did not attend;
- (d) the names of any professional advisers or any other person who attended the meeting;
- (e) any decisions made at the meeting; and
- (f) whether since the previous meeting there has been any occasion when a decision has been made by the trustees and if so the time, place and date of such a decision, and the names of the trustees who participated in the decision.

[<sup>F74</sup>(2) This regulation shall not apply in the case of a trust scheme which falls within the descriptions referred to in—

- (a) regulation 3(1)(f); or
- (b) regulation 3(1)(c) or (i) where any such scheme has fewer than 100 members.]

**Textual Amendments**

**F74** Reg. 13(2) substituted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2), **3(8)**

**Modifications etc. (not altering text)**

**C13** Reg. 13(1) applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

**Period for which books and records must be kept** E+W+S

14. The books and records referred to in regulations 12 and 13 shall be kept by the trustees for at least 6 years from the end of the scheme year to which they relate.

**Modifications etc. (not altering text)**

**C14** Reg. 14 applied (1.10.2000) by [The Stakeholder Pension Schemes Regulations 2000 \(S.I. 2000/1403\)](#), regs. 1(2), 32, **Sch. 2**

**Employer to make payments of benefits into a separate account** E+W+S

15.—[<sup>F75</sup>(1)] An employer is required, in cases where payments of benefits to members of trust schemes are made by him, to make into a separate account kept by him at a [<sup>F76</sup>deposit taker], any payment of benefit which has not been made to a member within 2 business days from the date of receipt by the employer.

- (a) [<sup>F77</sup>(2) (a) In this regulation “deposit taker” means—
  - (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits; or

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- (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of having qualified for authorisation under paragraph 12(1) of that Schedule) to accept deposits;
- (b) sub-paragraph (a) must be read with—
  - (i) section 22 of the Financial Services and Markets Act 2000,
  - (ii) any relevant order under that section, and
  - (iii) Schedule 2 to that Act.]

#### Textual Amendments

- F75** Reg. 15(1) : reg. 15 renumbered as reg. 15(1) (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#) , arts. 1 , **531(2)** , reg. 1
- F76** Words in reg. 15(1) substituted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#) , arts. 1 , **531(3)** , reg. 1
- F77** Reg. 15(2) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Repeals\) Order 2001 \(S.I. 2001/3649\)](#), arts. 1, **531(4)**, reg. 1

#### **[<sup>F78</sup> Prescribed time in which an employer must make payments to trustees or managers **E**** **+W+S**

**16.**—(1) Save as provided in paragraph (2), the prescribed period for the purposes of section 49(8) of the 1995 Act (amount deducted from earnings to be paid to the trustees or managers of the scheme within a prescribed period) is 19 days commencing from the end of the month in which the amount is deducted from the earnings in question.

**[<sup>F79</sup>(2)** Where a person becomes an active member of a relevant scheme, in relation to contributions deducted in the relevant period, the prescribed period for the purposes of section 49(8) of the 1995 Act is the period commencing on the day on which the first deduction in the relevant period is made and ending—

- (a) where the contribution is paid to the trustees or managers of the scheme by means of electronic communication, on the 22nd day of the month following the last day of the relevant period; or
- (b) in any other case, on the 19th day of the month following the last day of the relevant period.

(3) For the purposes of this regulation—

“the 2008” Act means the Pensions Act 2008;

“electronic communication” has the meaning given in section 15 of the Electronic Communications Act 2000;

“relevant period” means a period of three months commencing on the date from which active membership is effective; and

“relevant scheme” means—

- (a) a scheme which is a qualifying scheme in relation to the person under section 16 of the 2008 Act; or
- (b) where the person is enrolled in the scheme pursuant to section 9 of the 2008 Act, a scheme which is registered under chapter 2 of part 4 of the Finance Act 2004.]]

#### Textual Amendments

- F78** Reg. 16 substituted (1.10.2012) by [The Occupational and Personal Pension Schemes \(Automatic Enrolment\) Regulations 2010 \(S.I. 2010/772\)](#) , regs. 1(1) , **48**
- F79** Reg. 16(2) (3) substituted (1.11.2013) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/2556\)](#) , regs. 1(1) , **2**

#### [<sup>F80</sup>Exemptions from the requirement to notify the Authority or the member of a late contribution payment **E+W+S**

**16A.**—(1) Subject to paragraph (3), where an amount corresponding to any contribution payable on behalf of an active member of an occupational pension scheme—

- (a) is deducted from that member’s earnings in respect of any employment; and
- (b) is not paid to the trustees or managers of the scheme within the period of 19 days beginning on the first day of the month after which the deduction is made,

the trustees or managers do not need to give notice of the failure to pay that amount within that period to the Authority or member in the circumstances specified in paragraph (2).

(2) The specified circumstances are where the trustees or managers of the scheme are exempt from the requirement—

- (a) to secure the preparation, maintenance and revision of a payment schedule for the purposes of section 87(1) of the 1995 Act (schedules of payments to money purchase schemes), by virtue of regulation 17; or
- (b) to prepare, review and if necessary revise a schedule of contributions under section 227 of the 2004 Act (schedule of contributions), by virtue of any of sub-paragraphs (a) to (i) and (k) to (m) of regulation 17(1) of the Occupational Pension Schemes (Scheme Funding) Regulations 2005.

(3) Paragraph (1) does not apply in circumstances where the scheme is a public service pension scheme.

(4) For the purposes of this regulation—

“the 2013 Act” means the Public Service Pensions Act 2013;

“connected”, “new public body pension scheme” and “statutory pension scheme” have the meanings given in section 37 of the 2013 Act (general interpretation);

“public service pension scheme” means—

- (a) a scheme established under section 1 of the 2013 Act (schemes for persons in public service);
- (b) a new public body pension scheme;
- (c) any statutory pension scheme which is connected with a scheme referred to in paragraph (a) or (b).]

#### Textual Amendments

- F80** Reg. 16A substituted (1.4.2015) by [The Public Service Pensions \(Record Keeping and Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/3138\)](#), regs. 1, **7**

## PART IV E+W+S

### MONEY PURCHASE SCHEMES

#### Modifications etc. (not altering text)

- C15** Pt. IV continued (temp.) (24.7.2014) by [The Pensions Act 2011 \(Transitional, Consequential and Supplementary Provisions\) Regulations 2014 \(S.I. 2014/1711\)](#), regs. 1(1), **68** (with regs. 6, 41, 44(1), 47(1), 69(2), 72(1), 76(1))

#### [<sup>F81</sup> Exemption from requirement to secure a payment schedule E+W+S

**17.** For the purposes of section 87(1) of the 1995 Act (requirement for occupational pension schemes which are money purchase schemes to secure and maintain a payment schedule unless the scheme falls within a prescribed class or description) the prescribed class or description is a money purchase scheme which falls within the descriptions referred to in—

- (a) regulation 3(1)(a), (d), (f), (h) <sup>F82</sup> ...; or
- (b) regulation 3(1)(c) or (i) where any such scheme has fewer than 100 members.]

#### Textual Amendments

- F81** Reg. 17 substituted (30.8.2005, 22.9.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2), **3(10)**
- F82** Words in reg. 17(a) omitted (6.4.2006) by virtue of [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(6)**

#### Amounts to be shown in a payment schedule E+W+S

**18.** For the purposes of section 87(2)(b) of the 1995 Act (payment schedule to show other amounts payable towards the scheme as may be prescribed) the prescribed amounts are amounts payable towards the scheme by the employer in respect of expenses likely to be incurred in the scheme year.

#### Requirements which a payment schedule must satisfy E+W+S

**19.—**(1) For the purposes of section 87(3) of the 1995 Act (payment schedule for a scheme must satisfy prescribed requirements) the prescribed requirements are that—

- (a) the payment schedule shows amounts [<sup>F83</sup> prescribed in regulation 18] payable in the scheme year [<sup>F84</sup>and];
- (b) subject to paragraph (2), the payment schedule contains separate entries for the rates and due dates of contributions (other than voluntary contributions) payable towards the scheme by or on behalf of—
  - (i) the employer, and in the case of a scheme in relation to which there is more than one employer, each employer;
  - (ii) the active members of the scheme.

(2) In the case where an insurance premium is payable, the payment schedule need not contain separate entries for identifying the contributions payable by or on behalf of the employer and the active members of the scheme in respect of that premium.

**Textual Amendments**

- F83** Words in reg. 19(1)(a) inserted (30.12.1999) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/3198\)](#), regs. 1(1), **10(4)(a)**
- F84** Word in reg. 19(1)(a) inserted (30.12.1999) by [The Personal and Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 1999 \(S.I. 1999/3198\)](#), regs. 1(1), **10(4)(b)**

**Period within which notice must be given** **E+W+S**

<sup>F85</sup>**20.** . . . . .

**Textual Amendments**

- F85** Reg. 20 omitted (6.4.2006) by virtue of [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(7)**

**Circumstances where notice of non-payment of any amount payable to a scheme need not be given** **E+W+S**

**21.**—<sup>F86</sup>(1) . . . . .

(2) In the case of a scheme in relation to which there is more than one employer, notice of non-payment in respect of an amount payable in accordance with the payment schedule need not be given to members where their pensionable service is not with the employer who has not paid any amount in accordance with that payment schedule.

<sup>F87</sup>(3) . . . . .

[<sup>F88</sup>(4) Where, under section 49(9)(b) of the 1995 Act (other responsibilities of trustees, employers, etc ), there is a requirement on the trustees or managers to give notice within a reasonable time of a failure to pay [<sup>F89</sup> within a reasonable period ] an amount corresponding to any contribution payable on behalf of an active member which has been deducted from the member’s earnings, the trustees or managers shall not be required to give notice of a failure to pay such amount by the due date for the purposes of subsection (1) of section 88 of that Act, in a case to which that subsection would otherwise apply. ]

**Textual Amendments**

- F86** Reg. 21(1) omitted (6.4.2006) by virtue of [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(8)(a)**
- F87** Reg. 21(3) omitted (6.4.2006) by virtue of [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(8)(a)**
- F88** Reg. 21(4) substituted (6.4.2006) by [Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/778\)](#), regs. 1(1)(a), **4(4)**
- F89** Words in reg. 21(4) substituted (6.4.2006) by [Occupational Pension Schemes \(Administration and Audited Accounts\) \(Amendment\) Regulations 2005 \(S.I. 2005/2426\)](#), regs. 1(2)(c), **4(8)(b)**

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## [<sup>F90</sup> PART V E+W+S

### GOVERNANCE OF RELEVANT SCHEMES

#### Textual Amendments

**F90** Pt. V inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **16(1)(b)**

#### CHAPTER 1 E+W+S

##### GENERAL

#### Duty to appoint a chair of the trustees or managers E+W+S

**22.**—(1) Where a relevant scheme which is a trust scheme does not have a chair appointed, the trustees must appoint a chair of the trustees in accordance with this regulation.

(2) The chair of the trustees must be—

- (a) an individual who is a trustee of the scheme;
- (b) a professional trustee body which is a trustee of the scheme;
- (c) where a company which is not a professional trustee body is a trustee of the scheme, an individual who is a director of that company and through whom the company exercises its functions as a trustee of the scheme, or a professional trustee body which is a director of that company; or
- (d) in the case of a scheme established under section 67 of the Pensions Act 2008, a member of the trustee corporation established under section 75 of that Act.

(3) Where a relevant scheme is not a trust scheme, the managers must appoint one of their number to be the chair of the managers.

(4) The first chair of a relevant scheme must be appointed before the end of the period of three months starting with the date on which the scheme is established (but see also paragraph (6)).

(5) Where the chair ceases to hold office as chair for any reason, the trustees or managers must appoint a replacement in accordance with the provisions of this regulation, before the end of the period of three months starting with the date on which the chair ceases to hold that office [<sup>F91</sup>(but see also paragraph (7))].

(6) Paragraph (4) does not apply to a relevant scheme which was established before 6th April 2015 and, if the scheme has no chair on that date, the first chair must be appointed before the end of the period of three months starting with that date.]

[<sup>F92</sup>(7) Paragraph (5) does not apply to a scheme established under section 67 of the Pensions Act 2008.]

#### Textual Amendments

**F91** Words in [reg. 22\(5\)](#) inserted (6.4.2016) by [The Occupational Pension Schemes \(Scheme Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/427\)](#), regs. 1, **5(1)**

**F92** [Reg. 22\(7\)](#) inserted (6.4.2016) by [The Occupational Pension Schemes \(Scheme Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/427\)](#), regs. 1, **5(2)**



[<sup>F93</sup> **Annual statement regarding governance** **E+W+S**]

**23.**—(1) Subject to paragraph (3), the trustees or managers of a relevant scheme must prepare a statement within seven months of the end of each scheme year, and that statement must—

- (a) in relation to the default arrangement—
  - (i) include the latest statement prepared in accordance with regulation 2A (default investment strategy) of the Occupational Pension Schemes (Investment) Regulations 2005 (“the Investment Regulations”);
  - (ii) describe any review undertaken during the scheme year in accordance with paragraph (2) of that regulation;
  - (iii) explain any changes resulting from such a review; and
  - (iv) where no review was undertaken during the scheme year, give the date of the last review;
- (b) describe how the requirements of regulation 24 of these Regulations (requirements for processing financial transactions) have been met during the scheme year;
- (c) in relation to the charges and transaction costs which the trustees or managers are required to calculate in accordance with regulation 25(1)(a) of these Regulations—
  - (i) state the level of charges and transaction costs applicable to the default arrangement during the scheme year or, where the scheme has more than one default arrangement, state the range of the levels of charges and transaction costs applicable to those arrangements;
  - (ii) state the range of the levels of charges and transaction costs applicable to all funds which are not part of the default arrangement and in which assets relating to members are invested during the scheme year;
  - (iii) indicate any information about transaction costs which the trustees or managers have been unable to obtain and explain what steps are being taken to obtain that information in the future; and
  - (iv) explain the trustees’ or managers’ assessment, in accordance with regulation 25(1)(b), of the extent to which the charges and transaction costs represent good value for members;
- (d) describe how the requirements of sections 247 and 248 of the 2004 Act (requirements for knowledge and understanding) have been met during the scheme year and explain how the combined knowledge and understanding of the trustees or managers, together with the advice which is available to them, enables them properly to exercise their functions as trustees or managers of the scheme; and
- [<sup>F94</sup>(e) be signed on behalf of the trustees or managers by—
  - (i) the chair; or
  - (ii) where the chair has ceased to hold office as chair for any reason and a replacement has not yet been appointed, a person appointed by the trustees or managers to act as the chair in the interim period.]

(2) Where the first statement required to be prepared by the trustees or managers of a relevant scheme in accordance with this regulation relates to a scheme year which ends before 5th April 2016, this regulation applies to that statement as if references to “the scheme year” in sub-paragraphs (a) to (d) of paragraph (1) were to the part of the scheme year starting on 6th April 2015.

(3) Where the circumstances in paragraph (2) apply and the period to be covered by the first statement is three months or less, paragraph (1) does not apply to that scheme year, but the statement

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required to be prepared in relation to the following scheme year must include information relating to the period of three months or less of the previous scheme year.

(4) In this regulation “default arrangement” has the same meaning as in the Investment Regulations.]

#### Textual Amendments

- F93** Reg. 23 inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **17(1)**
- F94** Reg. 23(1)(e) substituted (6.4.2016) by [The Occupational Pension Schemes \(Scheme Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/427\)](#), regs. 1, **6**

#### [<sup>F95</sup>Requirements for processing financial transactions **E+W+S**]

**24.**—(1) The trustees or managers of a relevant scheme must secure that core financial transactions are processed promptly and accurately.

(2) A “core financial transaction” includes (but is not limited to)—

- (a) investment of contributions to the scheme;
- (b) transfers of assets relating to members into and out of the scheme;
- (c) transfers of assets relating to members between different investments within the scheme;
- (d) payments from the scheme to, or in respect of, members.

(3) In relation to a scheme which is not a money purchase scheme, this regulation applies only in relation to the provision of money purchase benefits.]

#### Textual Amendments

- F95** Reg. 24 inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **18**

#### [<sup>F96</sup>Assessment of charges and transaction costs **E+W+S**]

**25.**—(1) The trustees or managers of a relevant scheme must, at intervals of no more than one year—

- (a) calculate—
  - (i) the charges; and
  - (ii) in so far as they are able to do so, the transaction costs, borne by members of the scheme; and
- (b) assess the extent to which those charges and transaction costs represent good value for members.

(2) In this regulation (and in regulation 23), “charges” and “transaction costs” have the meanings given in regulation 2(1) of the Occupational Pension Schemes (Charges and Governance) Regulations 2015.

(3) In relation to a scheme which is not a money purchase scheme, this regulation applies only in relation to charges and transaction costs which relate to the provision of money purchase benefits.]

### Textual Amendments

- F96** Reg. 25 inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **19**

## [<sup>F97</sup> CHAPTER 3 **E+W+S**

### RELEVANT MULTI-EMPLOYER SCHEMES

### Textual Amendments

- F97** It is provided that Ch. 3 is inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **22**

### Annual statement regarding governance: relevant multi-employer schemes **E+W+S**

**26.** Where a relevant scheme is a relevant multi-employer scheme, the statement prepared in accordance with regulation 23 must include such of the following additional information as is relevant to the scheme—

- (a) how the requirements of regulation 27(2) (majority of trustees and chair to be non-affiliated) have been met during the year;
- (b) where a trustee who is non-affiliated (within the meaning of regulations 27 and 28) was appointed during the year, details of how the requirement of regulation 28(1) (open and transparent appointment process) was met;
- (c) details of the arrangements in place during the year to meet the requirement of regulation 29 (representation of the views of members to the trustees or managers).

### Appointment of trustees **E+W+S**

**27.—(1)** A relevant multi-employer scheme which is a trust scheme must have at least three trustees (but see also paragraphs (4) to (7)).

(2) A majority of the trustees of a relevant multi-employer scheme which is a trust scheme, including the chair of the trustees, must be non-affiliated (but see also paragraphs (4) to (7)).

[<sup>F98</sup>(2A) Paragraphs (1) and (2) override any provision of a relevant multi-employer scheme to the extent that it conflicts with those paragraphs.]

(3) Where there is a chair of the trustees at the time any other trustee is appointed, the chair must be consulted on the appointment.

(4) In relation to a company which is not a professional trustee body and which is a trustee of a relevant multi-employer scheme, this regulation applies as if—

- (a) the company were not a trustee of the scheme; and
- (b) each individual who is a director of the company and through whom the company exercises its functions as trustee, and any professional trustee body who is a director of the company, were a trustee of the scheme.

(5) A new relevant multi-employer scheme must meet the requirements of paragraphs (1) and (2) before the end of the period of three months starting with the date on which the scheme is established (or, if later, the date on which the scheme becomes a relevant multi-employer scheme which is a trust scheme).

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- (6) Where a trustee of a relevant multi-employer scheme—
- (a) ceases to be a trustee for any reason; or
  - (b) in the case of a trustee who was non-affiliated, ceases to be non-affiliated, the requirements of paragraphs (1) and (2) must be met before the end of the period of three months starting with the date on which the former trustee ceases to be a trustee or, as the case may be, the trustee ceases to be non-affiliated.
- (7) Where a relevant multi-employer scheme was established, or became a relevant multi-employer scheme, before 6th April 2015 and the requirements of paragraphs (1) or (2) are not met on that date, the requirement in question must be met before the end of the period of three months starting with that date.

[<sup>F99</sup>(7A) Where a relevant multi-employer scheme was established by or under an enactment, other than a scheme established under section 67 of the Pensions Act 2008, before 6th April 2016 and the requirements of paragraphs (1) or (2) are not met on that date, the requirement in question must be met before the end of the period of six months starting with that date.]

(8) In this regulation and in regulation 28, “non-affiliated” means independent of any undertaking which provides advisory, administration, investment or other services in respect of the relevant multi-employer scheme (but see also regulation 28).

#### Textual Amendments

- F98** Reg. 27(2A) inserted (6.4.2016) by [The Occupational Pension Schemes \(Scheme Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/427\)](#), regs. 1, **7(1)**
- F99** Reg. 27(7A) inserted (6.4.2016) by [The Occupational Pension Schemes \(Scheme Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/427\)](#), regs. 1, **7(2)**

#### Appointment of trustees: trustees who are non-affiliated **E+W+S**

**28.**—(1) The appointment process for a trustee who is to count as non-affiliated for the purposes of regulation 27(2) must be open and transparent.

(2) For the purposes of paragraph (1), an appointment process which is open and transparent includes (but is not limited to) a process which—

- (a) includes advertisement of the vacancy for a trustee in at least one appropriate national publication;
- (b) includes engagement of the services of a recruitment agency to assist in the selection of candidates; or
- (c) meets the requirements of section 241(2) or, as the case may be, 242(2) of the 2004 Act (nomination and selection of member-nominated trustees and member-nominated directors of corporate trustees).

(3) For the purposes of determining whether a person is non-affiliated, the following matters must be taken into account—

- (a) whether the person—
  - (i) is a director, manager, partner or employee of an undertaking which provides advisory, administration, investment or other services in respect of the scheme (a “service provider”) or an undertaking which is connected to a service provider; or
  - (ii) has been such a director, manager, partner or employee during the period of five years ending with the date of the person’s appointment as a trustee;

- (b) whether the person receives any payment or other benefit from a service provider, other than—
    - (i) a payment or other benefit in respect of a role in the governance of a personal pension scheme in which the person is required to act in the interests of some or all of the scheme members; or
    - (ii) a payment in respect of the person's role as trustee of the relevant multi-employer scheme;
  - (c) whether or not, in the person's relationship with a service provider, the person's obligations to the service provider conflict with their obligations as a trustee of the relevant multi-employer scheme and whether their obligations as a trustee will take priority in the case of a conflict.
- (4) A trustee who is an individual is not to count as non-affiliated for the purposes of regulation 27(2) for—
- (a) any one period of more than five years; or
  - (b) subject to paragraph (5), more than ten years in total.
- (5) No period of appointment of a trustee who is an individual is to be taken into account for the purposes of paragraph (4)(b) if more than five years have elapsed since the trustee last held office as a trustee of the same relevant multi-employer scheme.
- (6) Paragraphs (1) to (5) apply to an individual who is a director of a corporate trustee and to whom regulation 27 applies as if he or she were a trustee as they apply to a trustee who is an individual.
- (7) Where a trustee who is to count as non-affiliated for the purposes of regulation 27(2) is a professional trustee body—
- (a) the trustee is not to count as non-affiliated for any one period of more than five years;
  - (b) a nominated individual must act as representative of the trustee; and
  - (c) the nominated individual may not act as representative of the trustee for more than ten years in total.
- (8) For the purposes of paragraph (3)(a), two undertakings are "connected" if they are—
- (a) part of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of section 1159(1) of the Companies Act 2006; or
  - (b) partnerships, each having the same persons as at least half of its partners.

### Representation of members **E+W+S**

**29.** The trustees or managers of a relevant multi-employer scheme must make arrangements to encourage members of the scheme, or their representatives, to make their views on matters relating to the scheme known to the trustees or managers.]

Signed by authority of the Secretary of State for Social Security.

*Oliver Heald*  
Parliamentary Under-Secretary of State,  
Department of Social Security

**Status:** Point in time view as at 06/04/2016.

**Changes to legislation:** There are currently no known outstanding effects for the The Occupational Pension Schemes (Scheme Administration) Regulations 1996. (See end of Document for details)

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## EXPLANATORY NOTE

(This note is not part of the Regulations)

The Occupational Pension Schemes (Scheme Administration) Regulations 1996 (“the Regulations”) are the first regulations to be made in respect of the administration of occupational pension schemes under the Pensions Act 1995 (“the Act”).

The Regulations are made before the end of the period of six months beginning with the coming into force of the provisions of Part I of the Act by virtue of which they are made and therefore the requirement to consult does not apply.

Part I of the Regulations relates to citation, commencement and interpretation.

Part II makes provision relating to the appointment of professional advisers (regulations 2 and 3); qualification and experience of the auditor or actuary (regulation 4); manner and terms of appointment and removal (regulation 5); duty to disclose information (regulation 6).

Part III makes provision relating to the ineligibility to act as actuary or auditor and the meaning of trustee (regulations 7 and 8); manner and time of notice of occasion and circumstances in which no notice is required (regulations 9 and 10); exemption from the requirement for money to be kept by trustees (regulation 11); requirement to keep records and books and form of those records (regulations 12 and 13); period for which books and records must be kept (regulation 14); requirement of employers to make payments into separate accounts and time in which employers must make payments to trustees or managers (regulations 15 and 16).

Part IV makes provision requiring money purchase occupational pension schemes to show amounts in a payment schedule and the requirements which a payment schedule must satisfy (regulations 18 and 19); exemptions from the requirement to secure a payment schedule (regulation 17); period within which notice where amounts payable have not been paid and circumstances where notice need not be given (regulations 20 and 21).

An assessment of the compliance cost for employers of the measures arising from the Pensions Act 1995, including regulations, has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Private Pensions, 11th Floor, Adelphi, 1-11 John Adam Street, London WC2N 6HT.

**Status:**

Point in time view as at 06/04/2016.

**Changes to legislation:**

There are currently no known outstanding effects for the The Occupational Pension Schemes (Scheme Administration) Regulations 1996.