

SCHEDULE 3

SUPPLEMENTARY AND CONSEQUENTIAL PROVISIONS

Occupational Pension Schemes (Disclosure of Information) Regulations 1996

2.—(1) Subject to paragraph 3, the Occupational Pension Schemes (Disclosure of Information) Regulations 1996(1) (“the Disclosure Regulations”) are amended as follows.

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the 1995 Act” insert—

““the 2004 Act” means the Pensions Act 2004;”;

(b) after the definition of “public service pension scheme” insert—

““the Regulator” means the Pensions Regulator established under section 1 of the 2004 Act;”.

(3) In regulation 5 (information to be made available to individuals)—

(a) in paragraph (1), for “paragraphs (2) to (12)” substitute “paragraphs (2) to (12ZA)”;

(b) after paragraph (12) insert the following paragraph—

“(12ZA) Where the trustees of a scheme to which Part 3 of the 2004 Act applies have obtained an actuarial valuation or report under section 224 of that Act, they shall furnish the information mentioned in paragraphs 17 to 22 of Schedule 2, in the form of a summary funding statement, as of course to all members and beneficiaries (except excluded persons), within a reasonable period after the date by which they are required by that section to ensure that the valuation or report is received by them.”;

(c) after paragraph (12AA) insert the following paragraph—

“(12AB) If a scheme has been modified by the Regulator under section 231(2)(a) of the 2004 Act (modifications as regards the future accrual of benefits), the trustees must inform all active members of the fact within one month of the modification taking effect.”;

(d) in paragraph (12A) (sectionalised multi-employer schemes)—

(i) for “Schedule 5 to the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996” substitute “Schedule 2 to the Occupational Pension Schemes (Scheme Funding) Regulations 2005”;

(ii) for “section 56 of the 1995 Act” substitute “Part 3 of the 2004 Act”, and

(iii) for “section 56 does not apply” substitute “Part 3 does not apply”.

(4) In regulation 6(1)(c) (annual report to contain actuary’s certificate)—

(a) for “section 56 of the 1995 Act” substitute “Part 3 of the 2004 Act”, and

(b) before “that Act” insert “section 227 of”.

(5) For the heading to regulation 7, substitute “**Availability of other documents**”.

(6) For sub-paragraphs (a) to (c) in regulation 7(1), substitute the following sub-paragraphs—

“(a) the statement of funding principles where required under section 223 of the 2004 Act;

(b) where Part 3 of the 2004 Act applies to the scheme, the last actuarial valuation under section 224 of that Act received by the trustees, or, if an actuarial report under that section was received by them more recently than the last actuarial valuation, both that valuation and any report received subsequently;

(1) S.I.1996/1655; relevant amending instruments are S.I. 1997/786 and 2002/459.

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

- (c) any recovery plan prepared under section 226 of the 2004 Act which is currently in force;
 - (ca) the payment schedule where required under section 87 of the 1995 Act or schedule of contributions where required under section 227 of the 2004 Act, and”.
- (7) In Schedule 2 (information to be made available to individuals), after paragraph 16 add—
 - “17. A summary, based on the last actuarial valuation under section 224 of the 2004 Act received by the trustees and any actuarial report received subsequently, of the extent to which the assets of the scheme are adequate to cover its technical provisions.
 - 18. An explanation of any change in the funding position of the scheme—
 - (a) in the case of the first summary funding statement issued in respect of the scheme, since the last actuarial valuation in respect of the scheme under regulation 30 of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996(2) (ongoing actuarial valuations), or, if no such valuation was obtained, since the last actuarial valuation under the rules of the scheme, and
 - (b) in the case of any subsequent summary funding statement, since the date of the last summary funding statement.
 - 19. The actuary’s estimate of solvency contained in the last actuarial valuation under section 224 of the 2004 Act received by the trustees.
 - 20. A summary of any recovery plan prepared under section 226 of the 2004 Act which is currently in force.
 - 21. Whether the scheme has been modified under section 231(2)(a) of the 2004 Act, is subject to directions under section 231(2)(b) of that Act or bound by a schedule of contributions imposed under section 231(2)(c) of that Act, and if so an account of the circumstances in which the modification was made, the direction given or the schedule of conditions imposed.
 - 22. Whether any payment has been made to the employer under section 37 of the 1995 Act (3)(payment of surplus to employer)—
 - (a) in the case of the first summary funding statement issued in respect of the scheme, in the 12 months preceding the date on which it is prepared, and
 - (b) in the case of any subsequent summary funding statement, since the date of the last such statement,and, if so, the amount of the payment.”.

3.—(1) Until the trustees or managers of a scheme have prepared a schedule of contributions under section 227 of the 2004 Act (in accordance with regulation 9(1) of, or paragraph 5 of Schedule 4 to, these Regulations), the Disclosure Regulations have effect in relation to a scheme to which Part 3 of the 2004 Act applies as if—

- (a) the amendments in paragraph 2 of this Schedule had not been made;
- (b) those Regulations included the requirement in sub-paragraph (2) of this paragraph, and
- (c) regulations 1(2) (so far as material), 10 and 11 of those Regulations applied in respect of that requirement.

(2) The requirement referred to in paragraph (1)(b) is that, before 22nd September in 2006 and each subsequent year the trustees or managers of the scheme furnish all members and beneficiaries

(2) S.I. 1996/1536. Regulation 30 was amended by S.I. 1997/786.

(3) Section 37 is substituted by section 250 of the Pensions Act 2004.

(except excluded persons) with the following information, in the form of a summary funding statement—

- (a) a summary, based on the last actuarial valuation under regulation 30 of the Occupational Pension Schemes (Minimum Funding Requirement and Actuarial Valuations) Regulations 1996 (“the MFR Regulations”) received by the trustees or managers or, if no such valuation was obtained, the last actuarial valuation under the rules of the scheme, of the extent to which the assets of the scheme are adequate to meet its liabilities as they fall due;
- (b) an explanation of any change in the funding position of the scheme—
 - (i) in the case of the first summary statement issued in respect of the scheme, since the last actuarial valuation in respect of the scheme under regulation 30 of the MFR Regulations, or, if no such valuation was obtained, since the last actuarial valuation under the rules of the scheme, and
 - (ii) in the case of any subsequent summary funding statement, since the date of the last summary funding statement;
- (c) any estimate by the actuary of the solvency of the scheme, or, if the actuary has made more than one estimate of solvency, the latest such estimate;
 - (i) whether any payment has been made to the employer under section 37 of the 1995 Act—in the case of the first summary funding statement issued in respect of the scheme, in the 12 months preceding the date on which it is prepared, and
 - (ii) in the case of any subsequent summary funding statement, since the date of the last such statement,

and, if so, the amount of the payment.

(3) The trustees or managers of a scheme are not required to comply with the requirement in sub-paragraph (2) in any year if the scheme had fewer than 100 members during the 12 months ending on 31st August in that year.

(4) A summary funding statement furnished under sub-paragraph (2) must be accompanied by a written statement that further information about the scheme is available, giving the address to which enquiries about it should be sent.