

## STATUTORY INSTRUMENTS

# 2015 No. 879

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

### PART 2 U.K.

#### RESTRICTIONS ON CHARGES

#### [<sup>F1</sup>CHAPTER 1 U.K.]

#### DEFAULT ARRANGEMENTS, [<sup>F2</sup>qualifying collective money purchase schemes,] NON-CONTRIBUTING MEMBERS AND PAYMENTS TO ADVISERS

#### Textual Amendments

- F1** Ch. 1: reg. 4-13 renumbered as Ch. 1 (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, 4
- F2** Words in Pt. 2 Ch. 1 heading inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 7**

#### Restrictions on charges U.K.

4.—(1) Subject to regulations 9 and 10, the trustees or managers of a relevant scheme<sup>[<sup>F3</sup>, that is not a collective money purchase scheme,]</sup> must not impose or permit to be imposed on a member of that scheme to whom [<sup>F4</sup>this Chapter] applies charges which—

- (a) exceed the limits specified in [<sup>F4</sup>this Chapter]<sup>[<sup>F5</sup>, with the exception of regulation 6A]</sup>; or
- (b) are of a description prohibited by [<sup>F4</sup>this Chapter]<sup>[<sup>F6</sup>, with the exception of [<sup>F7</sup>regulations 5A and] 11A]</sup>.

[<sup>F8</sup>(1ZA) Subject to regulation 9, the trustees of a relevant scheme that is a qualifying collective money purchase scheme must not impose or permit to be imposed on the members of that scheme, in respect of members' rights under the scheme, charges which—

- (a) exceed the limits specified in this Chapter, with the exception of regulation 6; or
- (b) are of a description prohibited by this Chapter, with the exception of regulations 5, 11 and 11A.]

[<sup>F9</sup>(1A) Subject to regulation 11C, a service provider must not impose or permit to be imposed on a member to whom regulation 11A applies charges which are of a description prohibited by that regulation.]

(2) With the exception of [<sup>F10</sup>regulations [<sup>F11</sup>5A, 6A, 7A, 8A,] 11 and 11A], [<sup>F12</sup>this Chapter] applies—

*Status: Point in time view as at 01/08/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Occupational Pension Schemes (Charges and Governance) Regulations 2015, PART 2. (See end of Document for details)*

- (a) to a member of a relevant scheme<sup>F13</sup>, that is not a collective money purchase scheme,] to the extent of the value of that member's rights under a default arrangement; and
- (b) beginning with the date on which the first contribution to the default arrangement referred to in sub-paragraph (a) is received by the trustees or managers on or after the date on which this regulation comes into force.

[<sup>F14</sup>(3) [<sup>F15</sup>For the purposes of paragraph (2), the] application of this regulation and regulations [<sup>F16</sup>5, 6, 7, 8 and 9] in respect of the value of a member's rights is not affected by—

- (a) a transfer of those rights from one relevant scheme to another [<sup>F17</sup>(unless the receiving scheme is a qualifying collective money purchase scheme)]; or
- (b) a subsequent transfer of those rights from one arrangement to another within the receiving scheme,

where the member has not given consent to the transfer.

[<sup>F18</sup>(3A) If the receiving scheme referred to in paragraph (3) is a collective money purchase scheme (other than a qualifying collective money purchase scheme), this regulation and regulations 5, 6, 7, 8 and 9 apply in respect of the value of a member's rights, following any such transfer, as if the person was a member of a relevant scheme within the meaning of regulation 2(2)(a) or (b) to whom this Chapter applies in accordance with paragraph (2) (unless the person is a pensioner member of the receiving scheme, including a person who has become a pensioner member of the receiving scheme after the transfer).

(3B) Subject to paragraph (3C), the application of this regulation and regulations 5A, 6A, 7A, 8A and 9 in respect of a member of a relevant scheme that is a qualifying collective money purchase scheme is not affected by a transfer of the member's rights to a relevant scheme, where the member has not given consent to the transfer.

(3C) Paragraph (3B) does not apply in respect of the transfer of a member's rights from a qualifying collective money purchase scheme to a relevant scheme (within the meaning of regulation 2(2)(a) or (b))—

- (a) if this Chapter (with the exception of regulations 5A, 6A, 7A, 8A, 11 and 11A) would otherwise apply to the member by virtue of paragraph (2) upon their rights being transferred; or
- (b) if the member is a pensioner member of the qualifying collective money purchase scheme.

(3D) If a member's rights are transferred from a relevant scheme that is a qualifying collective money purchase scheme to a relevant scheme that is not a qualifying collective money purchase scheme (and paragraph (3B) applies in respect of the transfer of that member's rights)—

- (a) this regulation and regulations 5A, 6A, 7A, 8A and 9 apply in respect of that member (and any other members whose rights have been transferred at the same time) as if the person was a member, or as if the persons were members, of a qualifying collective money purchase scheme (unless the relevant scheme to which the rights are transferred is not a collective money purchase scheme and any such person is a pensioner member of the scheme, including a person who has become a pensioner member of the scheme after the transfer); and
- (b) references in this regulation and in regulations 5A, 6A, 7A, 8A and 9 to members of a qualifying collective money purchase scheme are to be read as references to those members subject to the transfer.]

(4) [<sup>F19</sup>This Chapter does not apply to a member of a relevant scheme that is not a collective money purchase scheme] to the extent of the value of that member’s rights in an arrangement (“Arrangement A”) where—

- (a) the value of the rights has been transferred to Arrangement A from an arrangement which is not a default arrangement;
- (b) the member has not given consent to the transfer;
- (c) before the transfer took place, Arrangement A was not a default arrangement; and
- (d) the member has, in the 5 years ending with the date of the transfer, expressed a choice as to where his or her contributions were allocated.]

[<sup>F20</sup>(5) In this regulation, “pensioner member” has the meaning given in section 124(1) of the 1995 Act.]

#### Textual Amendments

- F3** Words in [reg. 4\(1\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(2\)\(a\)](#)
- F4** Words in [reg. 4\(1\)](#) substituted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, [5\(2\)](#)
- F5** Words in [reg. 4\(1\)\(a\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(2\)\(b\)](#)
- F6** Words in [reg. 4\(1\)\(b\)](#) inserted (6.4.2016) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2016 \(S.I. 2016/304\)](#), regs. 1, [4\(2\)](#)
- F7** Words in [reg. 4\(1\)\(b\)](#) substituted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(2\)\(c\)](#)
- F8** [Reg. 4\(1ZA\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(3\)](#)
- F9** [Reg. 4\(1A\)](#) inserted (6.4.2016) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2016 \(S.I. 2016/304\)](#), regs. 1, [4\(3\)](#)
- F10** Words in [reg. 4\(2\)](#) substituted (6.4.2016) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2016 \(S.I. 2016/304\)](#), regs. 1, [4\(4\)](#)
- F11** Words in [reg. 4\(2\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(4\)\(a\)](#)
- F12** Words in [reg. 4\(2\)](#) substituted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, [5\(3\)](#)
- F13** Words in [reg. 4\(2\)\(a\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(4\)\(b\)](#)
- F14** [Reg. 4\(3\)-\(4\)](#) inserted (1.4.2018) by [The Occupational Pension Schemes \(Preservation of Benefit and Charges and Governance\) \(Amendment\) Regulations 2018 \(S.I. 2018/240\)](#), regs. 1(3), [3\(2\)](#)
- F15** Words in [reg. 4\(3\)](#) substituted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(5\)\(a\)](#)
- F16** Words in [reg. 4\(3\)](#) substituted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(5\)\(b\)](#)
- F17** Words in [reg. 4\(3\)\(a\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(5\)\(c\)](#)
- F18** [Reg. 4\(3A\)-\(3D\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(6\)](#)
- F19** Words in [reg. 4\(4\)](#) substituted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(7\)](#)
- F20** [Reg. 4\(5\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 8\(8\)](#)

### Prohibited charge structures [<sup>F21</sup>- default arrangements] **U.K.**

5.—(1) The description of the charges which are prohibited under regulation 4(1)(b) are charges under a charge structure other than—

- (a) a single charge structure; or
- (b) a combination charge structure.

(2) In these Regulations, a single charge structure is one under which the charges imposed on the member are calculated solely by reference to the value of the member's rights under the scheme.

(3) In these Regulations, a combination charge structure is one under which charges are calculated by reference to the value of the member's rights under the scheme ('an existing rights charge') and either—

- (a) calculated as a percentage of the value of contributions ('a contribution percentage charge'); or
- (b) calculated by reference to a period of time and not by reference to contributions or to the value of a member's rights under the scheme ('a flat fee charge').

(4) For the purposes of regulation 4(1)(b), neither the charge structure, nor the type of combination charge structure, that applies to a member may be changed during a charges year.

#### Textual Amendments

**F21** Words in [reg. 5](#) heading inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), [reg. 1\(3\)](#), [Sch. 7 para. 9](#)

### [<sup>F22</sup>Prohibited charge structures – qualifying collective money purchase schemes] **U.K.**

5A.—(1) The description of the charges which are prohibited under regulation 4(1ZA)(b) are charges under a charge structure other than—

- (a) a collective single charge structure; or
- (b) a collective combination charge structure.

(2) In these Regulations, a collective single charge structure is one under which charges are calculated solely by reference to the value of members' rights under the scheme.

(3) In these Regulations, a collective combination charge structure is one under which charges are calculated by reference to the value of members' rights under the scheme ('a collective existing rights charge') and either—

- (a) calculated as a percentage of the value of contributions made by or on behalf or in respect of members of the scheme towards the scheme ('a collective contribution percentage charge'); or
- (b) calculated by reference to a period of time and not by reference to contributions made by or on behalf or in respect of members of the scheme towards the scheme or to the value of members' rights under the scheme ('a collective flat fee charge').

(4) For the purposes of regulation 4(1ZA)(b), neither the charge structure, nor the type of collective combination charge structure, that applies to the members may be changed during a charges year.]

**Textual Amendments**

**F22** Reg. 5A inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), Sch. 7 para. 10

**Limits on charges [<sup>F23</sup> - default arrangements] U.K.**

6.—(1) [<sup>F24</sup>Subject to regulation 13C(6)] the limits on charges for the purposes of regulation 4(1) (a) are the limits specified in this regulation and the trustees or managers must choose whether to assess them in accordance with regulation 7 or 8 (but see regulation 8(6)).

(2) The limit in relation to a single charge structure is 0.75% annually of the value of the member's rights under the default arrangement.

(3) The limit in the case of a combination charge structure whose charges fall within regulation 5(3)(a) is —

- (a) in relation to the contribution percentage charge, 2.5% of the contributions allocated under the default arrangement —
  - (i) annually, or
  - (ii) where in relation to a charges year, regulation 4 does not apply to the member for the whole of the year, in the period for which that regulation applies; and
- (b) in relation to the existing rights charge, the percentage annually of the value of the member's rights under the default arrangement which is the figure in Column 2 of the following table which corresponds to the contribution percentage charge rate in Column 1 of that table which is imposed on the member.

<i>Column 1 Contribution percentage charge rate (%)</i>	<i>Column 2 Existing rights charge rate</i>
1 or lower	0.6
Higher than 1 but no higher than 2	0.5
Higher than 2 but no higher than 2.5	0.4

(4) The limit in the case of a combination charge structure whose charges fall within regulation 5(3)(b) is—

- (a) [<sup>F25</sup>subject to paragraphs (5) to (7),] in relation to the flat fee charge, £25 annually; and
- (b) in relation to the existing rights charge, the percentage annually of the value of the member's rights under the default arrangement which is the figure in Column 2 of the following table which corresponds to the annual flat fee charge in Column 1 of that table which is imposed on the member.

<i>Column 1 Flat fee charge (£)</i>	<i>Column 2 Existing rights charge rate (%)</i>
10 or less	0.6
More than 10 but no more than 20	0.5
More than 20 but no more than 25	0.4

[<sup>F26</sup>(5) Subject to paragraph (6), the flat fee charge under paragraph (4)(a) may be imposed where the value of the member's rights under the default arrangement is more than £100.

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(6) The flat fee charge under paragraph (4)(a) may only be imposed to the extent that it does not reduce the value of the member's rights under the default arrangement to less than £100.

(7) The value of the member's rights under the default arrangement for the purposes of paragraphs (5) and (6) includes the value of any rebate or refund which falls to be applied by virtue of regulation 6ZA.]

#### Textual Amendments

- F23** Words in reg. 6 heading inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 11**
- F24** Words in reg. 6(1) inserted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **6**
- F25** Words in reg. 6(4)(a) inserted (6.4.2022) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2022 \(S.I. 2022/10\)](#), regs. 1(1), **2(2)(a)** (with reg. 1(3))
- F26** Reg. 6(5)-(7) inserted (6.4.2022) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2022 \(S.I. 2022/10\)](#), regs. 1(1), **2(2)(b)** (with reg. 1(3))

#### [<sup>F27</sup>Limits on charges – qualifying collective money purchase schemes **U.K.**

**6A.**—(1) The limits on charges for the purposes of regulation 4(1ZA)(a) are the limits specified in this regulation and the trustees must choose whether to assess them in accordance with regulation 7A or 8A (but see regulation 8A(7)).

(2) The limit in the case of a collective single charge structure is 0.75% annually of the value of members' rights under the scheme.

(3) The limit in the case of a collective combination charge structure whose charges fall within regulation 5A(3)(a) is—

- (a) in relation to the collective contribution percentage charge, 2.5% of contributions made by or on behalf or in respect of members allocated under the scheme—
- (i) annually, or
- (ii) where, in relation to a charges year, regulation 4 does not apply in respect of members for the whole of the year, in the period for which that regulation applies; and
- (b) in relation to the collective existing rights charge, the percentage annually of the value of members' rights under the scheme which is the figure in Column 2 of the following table which corresponds to the collective contribution percentage charge rate in Column 1 of that table which is imposed on the members.

<i>Column 1</i>	<i>Column 2</i>
<i>Collective contribution percentage charge rate (%)</i>	<i>Collective existing rights charge rate (%)</i>
1 or lower	0.6
Higher than 1 but no higher than 2	0.5
Higher than 2 but no higher than 2.5	0.4

(4) The limit in the case of a collective combination charge structure whose charges fall within regulation 5A(3)(b) is—

- (a) in relation to the collective flat fee charge, £25 annually per member; and

- (b) in relation to the collective existing rights charge, the percentage annually of the value of members' rights under the scheme which is the figure in Column 2 of the following table which corresponds to the annual collective flat fee charge per member in Column 1 of that table which is imposed on the members.

<i>Column 1</i>	<i>Column 2</i>
<i>Collective flat fee charge (£ per member)</i>	<i>Collective existing rights charge rate (%)</i>
10 or less	0.6
More than 10 but no more than 20	0.5
More than 20 but no more than 25	0.4]

#### Textual Amendments

**F27** Reg. 6A inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 12**

#### [<sup>F28</sup>Imposition of more than one flat fee charge] **U.K.**

**6ZA.**—(1) Paragraph (2) applies where more than one flat fee charge under regulation 6(4)(a) is imposed, under a single default arrangement, on a member in respect of a charges year.

(2) The trustees or managers must, as soon as practicable, restore the value of the member's rights under the default arrangement to the value it would have been if only one such charge had been imposed.

(3) When restoring the value of the member's rights under paragraph (2), the trustees or managers must have regard to—

- (a) the restrictions on flat fee charges imposed by regulation 5(3)(b); and
- (b) the limit specified in regulation 6(4)(a).]

#### Textual Amendments

**F28** Reg. 6ZA inserted (6.4.2022) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2022 \(S.I. 2022/10\)](#), regs. 1(1), **2(3)** (with reg. 1(3))

#### Assessment of charges [<sup>F29</sup>- default arrangements] **U.K.**

**7.**—(1) If the trustees or managers make the choice under regulation 6(1) to assess charges in accordance with this regulation, the following provisions apply.

(2) Trustees or managers must calculate the value of the member's rights under the default arrangement at reference points set at equal intervals during the charges year of no more than 3 months (but see paragraphs (3), (6) and(7)).

(3) Where trustees or managers change the intervals between reference points chosen for the purposes of paragraph (2) during the charges year, the start of the first new interval must commence on the day following the reference point at the end of the previous interval.

- (4) The limit of permitted charges under—
- (a) a single charge structure; or

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(b) an existing rights charge in a combination charge structure, is exceeded if the charges imposed on the member annually exceed the average of the reference point values multiplied by the applicable percentage.

(5) The applicable percentage is—

- (a) in the case of a single charge structure, 0.75%; and
- (b) in the case of an existing rights charge in a combination charge structure, the percentage in Column 2 of the table—
  - (i) in regulation 6(3), where a contribution percentage charge is imposed; and
  - (ii) in regulation 6(4), where a flat fee is imposed [<sup>F30</sup>or where no such fee is imposed by virtue of the operation of regulation 6(5) and (6)].

(6) Where a member has rights in the default arrangement at only one reference point referred to in paragraph (2), paragraph (4) is to be read as if the words “average of the reference point values” read “value at the reference point”.

(7) Where a member has no rights in the default arrangement at a reference point referred to in paragraph (2), paragraph (4) is to be read as if the words “average of the reference point values” read “value of that member's rights in the default arrangement on the final day of the charges year or, where the member has no such rights on that day, on the final day on which the member has such rights,”.

(8) In this regulation monthly, 2 monthly and 3 monthly intervals are to be treated as equal intervals.

[<sup>F31</sup>(9) Paragraph (10) applies where the charges imposed on a member include a performance fee payable at the end of the investment period.

(10) For the purposes of paragraph (4), the charge imposed annually on the member in relation to the performance fee may be treated as X divided by Y, where—

- (a) X is the sum of the performance fees accrued in relation to the return earned by the assets in the default arrangement (“the relevant assets”) during the relevant charges year and each of the preceding charges years, up to a maximum of four preceding charges years, and
- (b) Y is—
  - (i) 5, or
  - (ii) where the investment period is less than 5 charges years, the number of charges years in the relevant period.

(11) Where the trustees or managers choose to calculate the charge imposed annually on a member in accordance with paragraph (10), the trustees or managers must, at the end of each charges year during the investment period, calculate—

- (a) the return earned by the relevant assets during that charges year;
- (b) the performance fee which has accrued in relation to that return.

(12) In this regulation, “investment period” means the total period for which the assets in the default arrangement are invested in an investment for which a performance fee is payable at the end of the investment period.]

#### Textual Amendments

**F29** Words in [reg. 7](#) heading inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), [reg. 1\(3\)](#), [Sch. 7 para. 13](#)



- F30** Words in reg. 7(5)(b)(ii) inserted (6.4.2022) by The Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations 2022 (S.I. 2022/10), regs. 1(1), **2(4)** (with reg. 1(3))
- F31** Reg. 7(9)-(12) inserted (with application in accordance with reg. 1(6) of the amending S.I.) by The Occupational Pension Schemes (Administration, Investment, Charges and Governance) (Amendment) Regulations 2021 (S.I. 2021/1070), regs. 1(2), **6(3)**

<sup>F32</sup>**Assessment of charges – qualifying collective money purchase schemes** **U.K.**

**7A.**—(1) If the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation, the following provisions apply.

(2) Trustees must calculate the value of members’ rights under the scheme at reference points set at equal intervals during the charges year of no more than 3 months (but see paragraphs (3), (6) and (7)).

(3) Where trustees change the intervals between reference points chosen for the purposes of paragraph (2) during the charges year, the start of the first new interval must commence on the day following the reference point at the end of the previous interval.

(4) The limit of permitted charges under—

- (a) a collective single charge structure; or
- (b) a collective existing rights charge in a collective combination charge structure,

is exceeded if the charges imposed on the members annually exceed the average of the reference point values multiplied by the applicable percentage.

(5) The applicable percentage is—

- (a) in the case of a collective single charge structure, 0.75%; and
- (b) in the case of a collective existing rights charge in a collective combination charge structure, the percentage in Column 2 of the table—
  - (i) in regulation 6A(3), where a collective contribution percentage charge is imposed; and
  - (ii) in regulation 6A(4), where a collective flat fee is imposed.

(6) Where members have rights under the scheme at only one reference point referred to in paragraph (2), paragraph (4) is to be read as if the words “average of the reference point values” read “value at the reference point”.

(7) Where members have no rights under the scheme at a reference point referred to in paragraph (2), paragraph (4) is to be read as if the words “average of the reference point values” read “value of members’ rights under the scheme on the final day of the charges year or, if there are no members who have such rights on that day, on the final day on which there are members who have such rights.”.

(8) In this regulation monthly, 2 monthly and 3 monthly intervals are to be treated as equal intervals.

(9) Paragraph (10) applies where the charges imposed on the members include a performance fee payable at the end of the investment period.

(10) For the purposes of paragraph (4), the charge imposed annually on the members in relation to the performance fee may be treated as X divided by Y, where—

- (a) X is the sum of the performance fees accrued in relation to the return earned by the assets in the scheme (“the relevant assets”) during the relevant charges year and each of the preceding charges years, up to a maximum of four preceding charges years, and
- (b) Y is—

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- (i) 5, or
- (ii) where the investment period is less than 5 charges years, the number of charges years in the relevant period.

(11) Where the trustees choose to calculate the charge imposed annually on the members in accordance with paragraph (10), the trustees must, at the end of each charges year during the investment period, calculate—

- (a) the return earned by the relevant assets during that charges year;
- (b) the performance fee which has accrued in relation to that return.

(12) In this regulation, “investment period” means the total period for which the assets in the scheme are invested in an investment for which a performance fee is payable at the end of the investment period.]

#### Textual Amendments

**F32** Reg. 7A inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), Sch. 7 para. 14

#### Alternative assessment of charges [<sup>F33</sup> - default arrangements] **U.K.**

8.—(1) If the trustees or managers make the choice under regulation 6(1) to assess charges in accordance with this regulation, the limit of permitted charges under—

- (a) a single charge structure; or
- (b) an existing rights charge in a combination charge structure,

is not exceeded, if on the first day of the charges year, the charges regime to be applied to the member's rights meets the requirement in paragraph (2) and that charges regime is applied to the member's rights throughout that charges year.

(2) The requirement referred to in paragraph (1) is that the charges regime would not result in charges being imposed on the member exceeding the limit of permitted charges when calculated in accordance with regulation 7, if the assumptions in paragraph (3) [<sup>F34</sup> and, if the trustees or managers so choose, the assumption in paragraph (3A)] are made for the purposes of those calculations.

(3) The assumptions to be made for the purposes of paragraph (2) are –

- (a) the value of the member's rights under the default arrangement will not increase or decrease during the charges year when compared to the value on the first day of the charges year, other than as a result of charges imposed on the member; and
- (b) the member may leave the scheme at any time during that charges year.

[<sup>F35</sup>(3A) The assumption which may be made for the purposes of paragraph (2) is that, where the charges include a performance fee to which regulation 7(10) applies, the charge to be imposed on the member in relation to the forthcoming charges year will be X divided by Y, where—

- (a) X is the sum of the performance fees accrued in relation to the return earned by the assets in the default arrangement during each of the years preceding the charges year in question, up to a maximum of five preceding charges years, and
- (b) Y is—
  - (i) 5, or
  - (ii) where the investment period is less than 5 charges years, the number of charges years in the relevant period.]

- (4) In this regulation, “charges regime” means—
- (a) the charges to be imposed, and any rebates of charges to be applied, as a percentage of the value of the member's rights in the default arrangement;
  - (b) when they are to be deducted from, or added to, the member's rights throughout the charges year;
  - (c) how the value of the member's rights will be calculated for the purposes of imposing or rebating charges.

(5) Where the first contribution in relation to a member to the default arrangement is made after the first day of the charges year, paragraphs (1) and (3)(a) are to be read as if “on the first day of the charges year” were “on the date on which the first contribution is made in a charges year”.

(6) Where the trustees or managers make the choice under regulation 6(1) to assess charges in accordance with this regulation but, during the charges year the charges regime fails to meet the requirement in paragraph (2), the trustees or managers must assess charges for the whole charges year in accordance with regulation 7.

#### Textual Amendments

- F33** Words in reg. 8 heading inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 15](#)
- F34** Words in reg. 8(2) inserted (with application in accordance with reg. 1(6) of the amending S.I.) by [The Occupational Pension Schemes \(Administration, Investment, Charges and Governance\) \(Amendment\) Regulations 2021 \(S.I. 2021/1070\)](#), regs. 1(2), [6\(4\)\(a\)](#)
- F35** Reg. 8(3A) inserted (with application in accordance with reg. 1(6) of the amending S.I.) by [The Occupational Pension Schemes \(Administration, Investment, Charges and Governance\) \(Amendment\) Regulations 2021 \(S.I. 2021/1070\)](#), regs. 1(2), [6\(4\)\(b\)](#)

#### <sup>F36</sup> Alternative assessment of charges – qualifying collective money purchase schemes **U.K.**

**8A.**—(1) If the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation, the limit of permitted charges under—

- (a) a collective single charge structure; or
- (b) a collective existing rights charge in a collective combination charge structure,

is not exceeded if, on the first day of the charges year, the charges regime to be applied to members’ rights under the scheme meets the requirement in paragraph (2) and that charges regime is applied to members’ rights throughout that charges year.

(2) The requirement referred to in paragraph (1) is that the charges regime would not result in charges being imposed on the members exceeding the limit of permitted charges when calculated in accordance with regulation 7A, if the assumptions in paragraph (3) and, if the trustees so choose, the assumption in paragraph (4) are made for the purposes of those calculations.

- (3) The assumptions to be made for the purposes of paragraph (2) are—
- (a) the value of members’ rights under the scheme will not increase or decrease during the charges year when compared to the value on the first day of the charges year, other than as a result of charges imposed on the members; and
  - (b) all the members may leave the scheme at any time during that charges year.

(4) The assumption which may be made for the purposes of paragraph (2) is that, where the charges include a performance fee to which regulation 7A(10) applies, the charge to be imposed on the members in relation to the forthcoming charges year will be X divided by Y, where—

*Status: Point in time view as at 01/08/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Occupational Pension Schemes (Charges and Governance) Regulations 2015, PART 2. (See end of Document for details)*

- (a) X is the sum of the performance fees accrued in relation to the return earned by the assets in the scheme during each of the years preceding the charges year in question, up to a maximum of five preceding charges years, and
- (b) Y is—
- (i) 5, or
  - (ii) where the investment period is less than 5 charges years, the number of charges years in the relevant period.
- (5) In this regulation, “charges regime” means—
- (a) the charges to be imposed, and any rebates of charges to be applied, as a percentage of the value of members’ rights under the scheme;
  - (b) when they are to be deducted from, or added to, the value of members’ rights throughout the charges year;
  - (c) how the value of members’ rights will be calculated for the purposes of imposing or rebating charges.
- (6) Where the first contribution made by or on behalf or in respect of members to the scheme is made after the first day of the charges year, paragraphs (1) and (3)(a) are to be read as if “on the first day of the charges year” read “on the date on which the first contribution is made in a charges year”.
- (7) Where the trustees make the choice under regulation 6A(1) to assess charges in accordance with this regulation but, during the charges year the charges regime fails to meet the requirement in paragraph (2), the trustees must assess charges for the whole charges year in accordance with regulation 7A.]

#### Textual Amendments

**F36** Reg. 8A inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), [Sch. 7 para. 16](#)

#### Member agreement for services **U.K.**

9.—(1) Subject to paragraph (3), [<sup>F37</sup>in the case of a member of a relevant scheme (that is not a collective money purchase scheme),] the restrictions in regulation 4 do not apply in relation to [<sup>F38</sup>advice or] a service for which the member has entered into an agreement with a person for the provision of that [<sup>F39</sup>advice or] service, provided the conditions in paragraph (2) are satisfied.

[<sup>F40</sup>(1A) Subject to paragraph (3), in the case of the members of a relevant scheme (that is a qualifying collective money purchase scheme), the restrictions in regulation 4 (with the exception of regulation 4(1A)) do not apply in relation to advice or a service for which a member has entered into an agreement with a person for the provision of that advice or service, provided the conditions in paragraph (2) are satisfied.]

- (2) The conditions referred to in [<sup>F41</sup>paragraphs (1) and (1A)] are that the agreement must—
- (a) be in writing; and
  - (b) include a statement that entering into the agreement—
    - (i) is not a condition of becoming or remaining a member of a relevant scheme;
    - (ii) is not a condition of the member's contributions being allocated under a default arrangement [<sup>F42</sup>or under a qualifying collective money purchase scheme, as applicable]; and

- (iii) will incur charges at a rate or of an amount specified in the agreement and that such charges may be higher than would otherwise be permitted under these Regulations;
- (c) be entered into before the charges are imposed.
- (3) This regulation does not apply to [<sup>F43</sup>advice or] a service which—
- (a) the provider is under a statutory obligation to provide; or
- (b) is a core service.
- (4) In this regulation “core service” includes (but is not limited to)—
- (a) designing and implementing an investment strategy;
- (b) investment of contributions to the scheme;
- (c) holding investments relating to scheme members;
- (d) a transfer out of a default arrangement into a different arrangement, fund or scheme;
- (e) a transfer into a default arrangement<sup>F44</sup> ...
- [<sup>F45</sup>;
- (f) a transfer out of a qualifying collective money purchase scheme into a different scheme;
- (g) a transfer into a qualifying collective money purchase scheme.]

#### Textual Amendments

- F37** Words in reg. 9(1) inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 17(2)**
- F38** Words in reg. 9(1) inserted (1.10.2017) by The Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations 2017 (S.I. 2017/774), regs. 1, **7(2)(a)**
- F39** Words in reg. 9(1) inserted (1.10.2017) by The Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations 2017 (S.I. 2017/774), regs. 1, **7(2)(b)**
- F40** Reg. 9(1A) inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 17(3)**
- F41** Words in reg. 9(2) substituted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 17(4)(a)**
- F42** Words in reg. 9(2)(b)(ii) inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 17(4)(b)**
- F43** Words in reg. 9(3) inserted (1.10.2017) by The Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations 2017 (S.I. 2017/774), regs. 1, **7(3)**
- F44** Reg. 9(4) full-stop omitted (1.8.2022) by virtue of The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 17(5)**
- F45** Words in reg. 9(4) inserted (1.8.2022) by The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 (S.I. 2022/255), reg. 1(3), **Sch. 7 para. 17(5)**

#### Charge limits adjustment **U.K.**

**10.**—(1) The charge limits do not apply, on or after the adjustment date, to a member of a relevant scheme<sup>F46</sup>, that is not a collective money purchase scheme,] whose contributions are allocated to a default arrangement, in the circumstances set out in paragraph (2), if the conditions in paragraph (3) are met.

- (2) The circumstances for the purposes of paragraph (1) are that—
- (a) the trustees or managers have used their best endeavours to comply with the charge limits in relation to one or more members of the default arrangement referred to in paragraph (1)

- but have determined that they are unlikely to be able to comply with those limits for one or both of the current and following charges years; or
- (b) an event happens which is outside the control of the trustees or managers, and the trustees or managers have used their best endeavours to mitigate the effect of the event on the scheme but they have determined that, because of that event, they are unlikely to be able to comply with the charge limits for the current or the following charges year in relation to one or more members of the default arrangement referred to in paragraph (1).
- (3) The conditions referred to in paragraph (1) are that—
- (a) the trustees or managers have elected to implement an adjustment measure in relation to the default arrangement beginning on the adjustment date; and
- (b) the trustees or managers have informed the persons listed in paragraph (4) at least one month before the adjustment date—
- (i) that the trustees or managers have determined that they are unlikely to be able to comply with the charge limits, in relation to one or more members of the default arrangement, for one or both of the current and following charges years, as applicable;
- (ii) of the adjustment measure that will be implemented on the adjustment date, and
- (iii) that the charge limits will no longer apply to members of the default arrangement on or after the adjustment date.
- (c) the trustees or managers must, when informing the Regulator, do so in the manner and form determined by the Regulator.
- (4) The persons referred to in paragraph (3) are –
- (a) the employer whose workers are members of the default arrangement;
- (b) members of the default arrangement whose contributions have been allocated to the default arrangement in the 12 month period ending with the date of the determination in paragraph (2)(a) or (b), as applicable; and
- (c) the Regulator.
- (5) In this regulation the “adjustment date” means the date chosen by the trustees or managers on which the adjustment measure is to begin, and –
- (a) if the circumstances in paragraph (2)(a) apply, must be a date falling within a period of 6 months beginning with the date on which this regulation comes into force; or
- (b) if the circumstances in paragraph (2)(b) apply, must be a date falling within a period of 6 months beginning with the date that the trustees or managers make the determination described in paragraph (2)(b).
- (6) In this regulation the “adjustment measure” means a measure where –
- (a) the trustees or managers will no longer allocate future contributions of members of the scheme to the default arrangement, and will allocate future contributions of members of the default arrangement to another default arrangement within the scheme; or
- (b) the trustees or managers will no longer accept future contributions of members of the default arrangement into the scheme, and will not allocate the contributions of any other members of the scheme into that default arrangement.
- (7) In implementing the adjustment measure, the trustees or managers may decide to give the members described in paragraph (4)(b) the option to agree to continue to have their future contributions received by the scheme and allocated to the default arrangement, after the adjustment date.

(8) Where the trustees or managers have given to the members the option referred to in paragraph (7), the trustees or managers [<sup>F47</sup>must] inform the members described in paragraph (4)(b) of that option, and any such agreement by the member must be in writing and include an acknowledgement by the member that charges under the default arrangement may be higher than would otherwise be permitted under these Regulations.

(9) Where a member is given the option referred to in paragraph (7) but does not agree to the option offered, that decision is not to be treated as being an action or omission by a jobholder for the purposes of section 6(4)(b) of the 2008 Act.

(10) In this regulation, “charge limits” means the provisions of regulation 4(1)(a) and regulation 6.

#### Textual Amendments

**F46** Words in [reg. 10\(1\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), [reg. 1\(3\)](#), [Sch. 7 para. 18](#)

**F47** Word in [reg. 10\(8\)](#) substituted (6.4.2016) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2016 \(S.I. 2016/304\)](#), [regs. 1, 5](#)

#### Non-contributing members **U.K.**

**11.**—(1) It is prohibited for the purposes of regulation 4(1)(b) to impose or permit to be imposed on a non-contributing member to whom this regulation applies a higher—

- (a) rate of charges where a scheme imposes a charge based on a percentage charge; or
- (b) amount of charges where a scheme imposes a charge which is not based on a percentage charge,

than that to which the member would have been subject if that member were a contributing member.

(2) In paragraph (1), the comparison is to be made on the basis of—

- (a) the period for which the member had contributed to the scheme on the date of that member's last contribution;
- (b) the value of the member's rights under the scheme on the date when the charges are imposed; and
- (c) the value of the last contribution made in relation to the member.

(3) This regulation applies to a non-contributing member of a relevant scheme provided that—

- (a) a contribution in relation to that member has been made to that scheme on or after the date on which this regulation comes into force; and
- (b) at least one contribution referred to in sub-paragraph (a) was made when the member was a worker of the employer in relation to whose jobholders the scheme is a qualifying scheme.

(4) This regulation applies to a non-contributing member beginning with the date on which the first contribution satisfying paragraph (3)(a) and (b) is received by the trustees or managers.

(5) In this regulation—

“non-contributing member” means a member who is not a contributing member; and

“relevant scheme” is a scheme satisfying the definition in [<sup>F48</sup>regulation 2(2)(a) or (b)] which is a qualifying scheme for at least one jobholder of the member's employer.

*Status: Point in time view as at 01/08/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Occupational Pension Schemes (Charges and Governance) Regulations 2015, PART 2. (See end of Document for details)*

### Textual Amendments

**F48** Words in [reg. 11\(5\)](#) substituted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), [reg. 1\(3\)](#), [Sch. 7 para. 19](#)

### <sup>F49</sup>Payments to advisers **U.K.**

**11A.**—(1) This regulation applies

(a) <sup>F50</sup>to a member of a specified scheme if the member is, or was, a worker of a qualifying scheme employer who participates, or has participated <sup>F51</sup> ..., in that scheme <sup>F52</sup>; or]]

[ to a member of a specified section, if the member is, or was, a worker of a qualifying <sup>F53</sup>(b) section employer who participates or has participated in the section.]

(2) Subject to paragraphs (4) and (6) and regulations 11B(2)<sup>F54</sup>, 11B(2B)] and 11C, it is prohibited for the purposes of regulation 4(1A) to impose or permit to be imposed on a member to whom this regulation applies a charge that is used—

- (a) directly or indirectly, to pay an adviser; or
- (b) to reimburse the service provider for a payment that the service provider has made to an adviser,

for advice or a service referred to in sub-paragraph (a) or (b) of paragraph (3).

(3) An adviser is a person who provides, has provided, or agrees to provide—

- (a) advice or a service to the member's employer or former employer who is participating in the specified scheme <sup>F55</sup>or specified section, as applicable]; or
- (b) advice or a service to a member of the specified scheme <sup>F55</sup>or specified section, as applicable].

(4) <sup>F56</sup>The prohibition in paragraph (2)] does not apply to the following services provided by an adviser—

- (a) a service relating to the administration of employee remuneration including tax deductions; and
- (b) a technological service which permits or enhances the ability of the service provider's computing system and the computing system provided by or on behalf of the employer to work together.

(5) Where the adviser is also the service provider, they are to be treated as separate persons for the purposes of this regulation.

<sup>F57</sup>(6) The prohibition in paragraph (2) does not apply to a charge imposed to reimburse a service provider for any payment made to an adviser for advice or a service referred to in paragraph (3) (a) or (b) where—

- (a) the charge is imposed under a relevant contract which—
  - (i) was entered into before 6th April 2016; and
  - (ii) has not been varied or renewed on or after that date; and
- (b) the payment was made before 1st October 2017.]]

[ <sup>F58</sup>(7) Where the prohibition in paragraph (2) applies it overrides any term of a relevant contract to the extent that the term conflicts with it.]



### Textual Amendments

- F49** Regs. 11A-11C inserted (6.4.2016) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2016 \(S.I. 2016/304\)](#), regs. 1, **6**
- F50** Words in [reg. 11A\(1\)\(a\)](#) in 11A(1) renumbered as [reg. 11A\(1\)\(a\)](#) (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 20(2)**
- F51** Words in [reg. 11A\(1\)](#) omitted (1.10.2017) by virtue of [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **8(2)**
- F52** Word in [reg. 11A\(1\)\(a\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 20(3)**
- F53** [Reg. 11A\(1\)\(b\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 20(4)**
- F54** Words in [reg. 11A\(2\)](#) inserted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **8(3)**
- F55** Words in [reg. 11A\(3\)](#) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 20(5)**
- F56** Words in [reg. 11A\(4\)](#) substituted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **8(4)**
- F57** [Reg. 11A\(6\)](#) substituted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **8(5)**
- F58** [Reg. 11A\(7\)](#) inserted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **8(6)**

### <sup>F49</sup>Relevant information **U.K.**

**11B.**—(1) The trustees or managers of a specified scheme must notify the service provider in writing that the scheme is a specified scheme within 3 months beginning with whichever is the later of—

- (a) 6th April 2016;
- (b) the date on which the scheme becomes a specified scheme; or
- (c) the date on which the service provider becomes a service provider in relation to the specified scheme.

(2) Subject to <sup>F59</sup>paragraphs (2B) and (5)], regulation 11A does not apply until the expiry of the period of 1 month beginning with the date on which the service provider receives the notification in paragraph (1).

[  
<sup>F60</sup>(2A) This paragraph applies where the relevant contract—

- (a) was entered into before 6th April 2016; and
- (b) has not been varied or renewed on or after that date.

(2B) Subject to paragraph (5), where paragraph (2A) applies regulation 11A does not apply until the expiry of the period of 6 months beginning with 1st October 2017.]

(3) <sup>F61</sup>Except in a case to which paragraph (2A) applies,] the service provider must confirm in writing to the trustees or managers who provided the notification in paragraph (1) that it is compliant with the prohibition in regulation 11A(2) in relation to all members to whom that regulation applies within 1 month beginning with the date on which that regulation first applies.

[

*Status: Point in time view as at 01/08/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Occupational Pension Schemes (Charges and Governance) Regulations 2015, PART 2. (See end of Document for details)*

<sup>F62</sup>(3A) In a case to which paragraph (2A) applies, subject to paragraph (5), the service provider must confirm in writing to the trustees or managers of the specified scheme within 1 month beginning with 1st April 2018 that it is complying with the prohibition in regulation 11A(2) in relation to all members to whom paragraph (2A) applies.]

(4) Where the service provider is unable to comply with the prohibition in regulation 11A(2) in relation to all members because the service provider requires information about which members are former workers to whom regulation 11A applies, the service provider may request the information from the trustees or managers of the specified scheme to enable it to comply.

(5) Where a request is made under paragraph (4), the time period referred to—

- (a) in [<sup>F63</sup>paragraphs (2) or (2B)] in respect of those members about whom a request has been made and to whom regulation 11A applies; or
- (b) [<sup>F64</sup>paragraphs (3) or (3A)],

commences on the date on which the information requested is received by the service provider.

(6) The service provider must inform the trustees or managers of the specified scheme in writing if the confirmation that it has given in compliance with paragraph (3) [<sup>F65</sup>or (3A)] is no longer accurate as soon as practicable, and in any event within 1 month, beginning with the date on which it is no longer accurate.

(7) Where a request is made under paragraph (4), the trustees or managers must provide the information requested within 1 month beginning with the date of receipt of the request.]

[<sup>F66</sup>(8) In this regulation, in relation to a specified section, references to a “specified scheme” are to be read as references to a “specified section”.]

#### Textual Amendments

- F49** Regs. 11A-11C inserted (6.4.2016) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2016 \(S.I. 2016/304\)](#), regs. 1, **6**
- F59** Words in reg. 11B(2) substituted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **9(2)**
- F60** Regs. 11B(2A)-(2B) inserted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **9(3)**
- F61** Words in reg. 11B(3) inserted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **9(4)**
- F62** Reg. 11B(3A) inserted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **9(5)**
- F63** Words in reg. 11B(5) substituted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **9(6)(a)**
- F64** Words in reg. 11B(5) substituted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **9(6)(b)**
- F65** Words in reg. 11B(6) inserted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **9(7)**
- F66** Reg. 11B(8) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 21**

#### [<sup>F49</sup>Member agreement for payments to advisers **U.K.**

**11C.**—(1) Subject to paragraphs (3) and (4), the prohibition in regulation 11A(2)(a) does not apply in relation to advice or a service given to a member of a specified scheme where—

- (a) the service provider; and

(b) the trustees or managers of the specified scheme,  
have received a copy of an agreement for the provision of that advice or service made between the member and an adviser, provided the conditions in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1) are that the agreement must—

- (a) be in writing;
- (b) include a description of the advice or service that will be provided to the member;
- (c) state that entering into the agreement is not a condition of becoming or remaining a member of a specified scheme;
- (d) state that by entering into the agreement the member will incur charges of an amount specified in the agreement which will be imposed over a period specified in the agreement and that such charges would otherwise not be permitted under regulation 11A(2)(a); and
- (e) be entered into before the charges are imposed.

(3) Where the charge limits apply to a member and the trustees or managers are of the opinion that charges imposed under an agreement under this regulation would be likely to place the trustees or managers in breach of those limits in relation to that member, they may inform—

- (a) the member;
- (b) the adviser; and
- (c) the service provider,

within 1 month beginning with the date on which they receive a copy of the agreement under this regulation, that they require that a member agreement for [<sup>F67</sup>advice or] services under regulation 9 is entered into by the member before the agreement under this regulation can take effect.

(4) Where the trustees or managers are of the opinion that the value of the member's rights in the scheme is not, or will not be, sufficient to pay the amount specified in an agreement under this regulation, the agreement does not take effect if the trustees or managers inform—

- (a) the member;
- (b) the adviser; and
- (c) the service provider,

of their opinion within 1 month beginning with the date on which they receive a copy of the agreement.]

[<sup>F68</sup>(5) In this regulation—

“charge limits” has the meaning given in regulation 10(10); and

“specified scheme” does not include a relevant scheme that is a collective money purchase scheme.]

#### Textual Amendments

- F49** Regs. 11A-11C inserted (6.4.2016) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2016 \(S.I. 2016/304\)](#), regs. 1, 6
- F67** Words in [reg. 11C\(3\)](#) inserted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, 10
- F68** [Reg. 11C\(5\)](#) substituted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) Regulations 2022 \(S.I. 2022/255\)](#), reg. 1(3), **Sch. 7 para. 22**

*Status: Point in time view as at 01/08/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Occupational Pension Schemes (Charges and Governance) Regulations 2015, PART 2. (See end of Document for details)*

## Amendment of the Stakeholder Pension Schemes Regulations 2000 **U.K.**

- 12.**—(1) The Stakeholder Pension Schemes Regulations 2000 <sup>M1</sup> are amended as follows.
- (2) In regulation 13 <sup>M2</sup> (expenses, commission etc - principles), after paragraph (4) insert—
- “(5) This regulation and regulations 14 to 14C <sup>M3</sup> do not apply in the circumstances set out in regulation 14D.”
- (3) After regulation 14C (rounding of fractional amounts) insert—

### “Disapplication of regulations 13 to 14C in certain circumstances

- 14D.**—(1) The circumstances referred to in regulation 13(5) are as follows.
- (2) In relation to a member of a stakeholder pension scheme that is a personal scheme the circumstances are that—
- (a) the scheme is a qualifying scheme in relation to an employer; and
- (b) the member's workplace contributions are allocated under a default arrangement.
- (3) In relation to a member of a stakeholder pension scheme that is an occupational pension scheme, the circumstances are that Part 2 of the Occupational Pension Schemes (Charges and Governance) Regulations 2015 applies to the scheme.
- (4) In this regulation, “default arrangement” and “workplace pension contributions” have the meanings given in the FCA Handbook <sup>M4</sup>.”

#### Marginal Citations

- M1** [S.I. 2000/1403](#).
- M2** Regulation 13 was amended by [S.I. 2001/577](#) and [S.I. 2011/246](#).
- M3** Regulations 14, 14A, 14B and 14C were substituted by [S.I. 2005/577](#). Regulation 14, as substituted, was amended by [S.I. 2007/814](#) and [S.I. 2013/459](#).
- M4** The definition of “the FCA Handbook” was substituted for the definition of “the FSA Handbook” by [S.I. 2013/472](#). The definition of “the FSA Handbook” was inserted by [S.I. 2005/577](#).

## Amendments of other regulations **U.K.**

- 13.**—(1) In regulation 10(1) of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 <sup>M5</sup> (listed changes: exclusions), after sub-paragraph (a) insert—
- “(aa) is made for the purposes of implementing an adjustment measure within regulation 10 of the Occupational Pension Scheme (Charges and Governance) Regulations 2015,”.
- (2) After regulation 7A of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006 <sup>M6</sup> (modification of schemes: abolition of protected rights) insert—

### “Amendment of schemes for adjustment measure

**7B.** The trustees of a trust scheme scheme may by resolution amend the scheme for the purposes of implementing an adjustment measure within regulation 10 of the Occupational Pension Schemes (Charges and Governance) Regulations 2015.”.]

#### Marginal Citations

M5 [S.I. 2006/349](#).

M6 [S.I. 2006/759](#).

## [<sup>F69</sup>CHAPTER 2 **U.K.**

### RESTRICTIONS ON EARLY EXIT CHARGES

#### Textual Amendments

**F69** Ch. 2 inserted (1.10.2017) by [The Occupational Pension Schemes \(Charges and Governance\) \(Amendment\) Regulations 2017 \(S.I. 2017/774\)](#), regs. 1, **11**

#### Early exit charges **U.K.**

**13A.**—(1) For the purposes of this Chapter an early exit charge in relation to a member of a relevant scheme is a charge which—

- (a) is imposed under the scheme or a relevant contract when a member who has reached normal minimum pension age takes the action mentioned in subsection (2); but
- (b) is only imposed, or only imposed to that extent, if the member takes that action before the member's normal pension age.

(2) The action is the member taking benefits under the scheme, converting benefits under the scheme into different benefits or transferring benefits to another pension scheme.

(3) For the purposes of this regulation—

“normal minimum pension age” has the meaning given in section 279(1) of the Finance Act 2004;

“normal pension age” means the earliest age at which, or the earliest occasion on which, the member is entitled to receive the benefit without adjustment for taking it early or late (disregarding any special provision as to early payment on the grounds of ill-health or otherwise and any administration charges); and

a reference to “benefits” includes any part or all of those benefits.

#### Prohibition of early exit charges **U.K.**

**13B.**—(1) This regulation applies to a member of a relevant scheme who joined that scheme on or after 1st October 2017.

(2) Service providers and trustees and managers of a relevant scheme must not impose an early exit charge, or permit such a charge to be imposed, on a member of the scheme to whom this regulation applies.

#### Limits on early exit charges **U.K.**

**13C.**—(1) This regulation applies to a member of a relevant scheme who joined that scheme before 1st October 2017.

(2) Service providers and trustees and managers of a relevant scheme must not impose, or permit to be imposed, on a member of the scheme to whom this regulation applies an early exit charge that exceeds the lower of—

- (a) 1% of the value of the member's benefits being taken, converted or transferred; or

- (b) such amount as was provided for under the scheme rules or a relevant contract as at 1st October 2017.
- (3) Where no provision for an early exit charge was made under the scheme rules or a relevant contract as at 1st October 2017, service providers and trustees and managers of a relevant scheme must not impose an early exit charge, or permit such a charge to be imposed, on a member of the scheme to whom this regulation applies.
- (4) Trustees and managers of a relevant scheme must not—
  - (a) include provision in a relevant scheme for an early exit charge, where such provision did not exist on 1st October 2017; or
  - (b) vary provision for an early exit charge in such a scheme to increase or potentially increase the charge.
- (5) Nothing in this regulation permits an early exit charge to be imposed—
  - (a) that is higher than the limits prescribed by regulation 6 (limits on charges) where that regulation applies; or
  - (b) where section 33 of the Pension Schemes Act 2017 (prohibition on increasing charges etc during triggering event period) applies.
- (6) Nothing in regulation 6 permits—
  - (a) an early exit charge which is lower than 0.75% of the value of the member's benefits being taken, converted or transferred, to be increased; or
  - (b) an early exit charge to be imposed where one did not exist.
- (7) The value of a member's benefits in paragraphs (2)(a) and (6)(a)—
  - (a) means the value calculated at the point when the trustee or manager of the scheme receives confirmation from the member of the instruction to take the action giving rise to the early exit charge; and
  - (b) is to be calculated in accordance with guidance issued from time to time by the Secretary of State.

#### **Conflicting contract terms** **U.K.**

**13D.** Regulations 13B and 13C override any term of a relevant contract to the extent that the term conflicts with those regulations.

#### **Relevant information** **U.K.**

**13E.**—(1) A service provider must confirm in writing to the trustees or managers of a relevant scheme that it is complying with the restrictions in regulations 13B and 13C within 1 month beginning with whichever is the later of—

- (a) 1st October 2017; or
- (b) the date on which the service provider becomes a service provider in relation to the relevant scheme.

(2) The service provider must inform the trustees or managers of the relevant scheme in writing if the confirmation that it has given in compliance with paragraph (1) is no longer accurate as soon as practicable, and in any event within 1 month, beginning with the date on which that confirmation is no longer accurate.]

**Status:**

Point in time view as at 01/08/2022.

**Changes to legislation:**

There are currently no known outstanding effects for the The Occupational Pension Schemes (Charges and Governance) Regulations 2015, PART 2.