
STATUTORY INSTRUMENTS

2018 No. 1103

**The Occupational Pension Schemes
(Governance) (Amendment) Regulations 2018**

Code of practice

3.—(1) The code of practice which the Regulator issues under section 90(2) of the Act (codes of practice) in relation to the discharge of the duty imposed by section 249A(1)(1) of the Act must include the matters set out in paragraphs (2) to (8), in accordance with paragraphs (9) and (10).

(2) The effective system of governance(2), including—

- (a) how it provides for sound and prudent management of activities;
- (b) how it includes an adequate and transparent organisational structure with a clear allocation and appropriate segregation of responsibilities;
- (c) how it includes an effective system for ensuring transmission of information;
- (d) how it includes an effective internal control system;
- (e) how it ensures continuity and regularity in the performance of its activities, including the development of contingency plans;
- (f) how it includes consideration of environmental, social and governance factors related to investment assets in investment decisions;
- (g) how it is subject to regular internal review.

(3) The following key functions in the occupational pension scheme—

- (a) the risk-management function;
- (b) the function which internally evaluates adequacy and effectiveness of the system of governance; and
- (c) the actuarial function.

(4) Outsourcing of activities.

(5) Written policies in relation to the matters in paragraphs (3) and (4).

(6) The prior approval of the written policies in paragraph (5) by the trustees or managers of the occupational pension scheme, and the review of those policies at least every three years.

(7) Remuneration policies.

(8) The carrying out and documentation of an own-risk assessment of the system of governance by the trustees or managers of the occupational pension scheme, including—

- (a) how the trustees or managers integrate the own-risk assessment into the occupational pension scheme's management and decision-making processes;
- (b) how the trustees or managers assess the effectiveness of the risk-management system;

(1) Subsection (1) of section 249A of the Pensions Act 2004 is substituted by regulation 2(3) of these Regulations. The discharge of the duty imposed by section 249A(1) is already a prescribed matter for the purposes of section 90(2)(k) of the Pensions Act 2004 under regulation 3 of the Occupational Pension Schemes (Internal Controls) Regulations 2005 (S.I. 2005/3379).

(2) See subsection (1) of section 249A of the Pensions Act 2004 as substituted by regulation 2(3) of these Regulations.

- (c) how the trustees or managers prevent conflicts of interest with the employer, where the occupational pension scheme outsources key functions to the same person as the employer or to any person employed by the employer;
 - (d) how the trustees or managers assess the occupational pension scheme's funding needs, with reference to the recovery plan where applicable;
 - (e) how the trustees or managers assess the risk to members and beneficiaries relating to the paying out of their benefits and the effectiveness of any remedial action taking into account, where applicable—
 - (i) indexation mechanisms;
 - (ii) benefit reduction mechanisms, including the extent to which accrued pension benefits can be reduced, under which conditions and by whom;
 - (f) how the trustees or managers assess the mechanisms protecting retirement benefits, including, as applicable, guarantees, covenants or any other type of financial support by the employer, insurance or reinsurance, or coverage by a pension protection scheme;
 - (g) how the trustees or managers assess the operational risks;
 - (h) where environmental, social and governance factors are considered in investment decisions, how the trustees or managers assess new or emerging risks, including—
 - (i) risks relating to climate change, the use of resources and the environment;
 - (ii) social risks; and
 - (iii) risks relating to the depreciation of assets as a result of regulatory change;
 - (i) the timing of the documentation of the occupational pension scheme's first own-risk assessment, which must be prepared—
 - (i) within 12 months beginning with the last day of the first scheme year that begins after the Regulator has issued a code of practice referred to in paragraph (1); or
 - (ii) if later—
 - (aa) within 15 months beginning with the date on which the trustees or managers of the occupational pension scheme are next required to obtain an actuarial valuation in accordance with section 224 (actuarial valuations and reports) of the Act; or
 - (bb) by the date on which the trustees or managers of the occupational pension scheme are next required to prepare an annual statement in accordance with regulation 23 (annual statement regarding governance) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996(3);
 - (j) the timing for subsequent own-risk assessments, which must be prepared at intervals of not more than three years.
- (9) Paragraphs (2) to (8) apply to an occupational pension scheme which has 100 members or more.
- (10) Paragraph (2) applies to an occupational pension scheme which has 99 members or fewer.

(3) [S.I. 1996/1715](#); regulation 23 was inserted by [S.I. 2015/879](#); there are amendments which are not relevant to these Regulations.