Draft Regulations laid before Parliament under section 316(2) of the Pensions Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2023 No. ***

PENSIONS

The Occupational Pension Schemes (Funding and Investment Strategy and Amendment) Regulations 2023

Made - - - -	***
Coming into force - -	***

The Secretary of State for Work and Pensions makes the following Regulations(**a**) in exercise of the powers conferred by sections 221A(3)(b), (4) and (5), 221B(2)(d), (4), (6)(b) and (8), 222(4)(c), 224(6) and (7A), 226(3A) and 315(2), (4) and (5) of the Pensions Act 2004(**b**).

In accordance with section 317(1) of the Pensions Act 2004, the Secretary of State has consulted such persons as she considers appropriate.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with section 316(2) of the Pensions Act 2004.

PART 1

PRELIMINARY

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Occupational Pension Schemes (Funding and Investment Strategy and Amendment) Regulations 2023 and shall come into force on [XXX 2023].

(2) These Regulations extend to England and Wales and Scotland.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Pensions Act 2004;

"Code" means a code of practice issued by the Regulator;

(**a**) See section 318 of the Act for the definitions of "prescribed" and "regulations".

(**b**) 2004 c.35. Sections 221A, 221B, 224(7A) and 226(3A) were inserted and section 222(3)(b) was amended by Schedule 10 to the Pension Schemes Act 2021 (c.1).

"the actuarial valuation to which the funding and investment strategy relates" has the meaning given by regulation 8(5)(b);

"funding level" has the meaning given by section 221A(3)(a) of the Act (funding and investment strategy);

"group undertaking" has the meaning given by section 1161(5) of the Companies Act 2006 (meaning of "undertaking" and related expressions)(**a**);

"journey plan" in relation to a scheme means the scheme's planned progress in accordance with its funding and investment strategy as it moves towards the relevant date;

"low dependency funding basis" in relation to a calculation of the liabilities of a scheme has the meaning given by regulation 6;

"low dependency investment allocation" in relation to the investment of the assets of a scheme has the meaning given by regulation 5;

"maturity" in relation to a scheme is measured in accordance with regulation 4;

"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;

"relevant date" in relation to a scheme means the date determined in accordance with regulation 8 (as revised from time to time in accordance with that regulation);

"significant maturity" in relation to a scheme has the meaning given by regulation 4(1)(b);

"strength of the employer covenant" has the meaning given by, and is assessed in accordance with, regulation 7;

"undertaking" has the meaning given by section 1161(1) of the Companies Act 2006.

Review of these Regulations

3.—(1) The Secretary of State must from time to time, in accordance with this regulation—

(a) carry out a review of regulations 4 to 19;

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(2) In carrying out the review the Secretary of State must in particular—

(a) set out the objectives intended to be achieved by the regulatory system established by the regulations referred to in paragraph (1)(a);

(b) assess the extent to which those objectives are being achieved; and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(4) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

(**a**) 2006 c. 46.

PART 2

FUNDING AND INVESTMENT STRATEGY

Scheme maturity

4.—(1) For the purposes of these Regulations—

(a) the maturity of a scheme is to be measured in years using a duration of liabilities measure in accordance with paragraphs (2) and (3);

(b) a scheme reaches significant maturity on the date it reaches the duration of liabilities in years specified by the Regulator in a Code.

(2) The duration of liabilities measure to be used for the purposes of paragraph (1) is the weighted mean time until the payment of pensions and other benefits under the scheme, weighted by the discounted payments.

(3) The actuarial assumptions used for the purposes of paragraph (2) must be actuarial assumptions used in a calculation of the liabilities of a scheme on a low dependency funding basis.

Low dependency investment allocation

5.—(1)For the purposes of these Regulations, a low dependency investment allocation, in relation to the investment of the assets of a scheme, means the requirements in paragraph (2) are satisfied in a way that complies with an objective that further employer contributions are not expected to be required to make provision for accrued rights to pensions and other benefits under the scheme.

(2) The requirements are—

(a) the assets of the scheme are invested in such a way that the cash flow from the investments is broadly matched with the payment of pensions and other benefits under the scheme; and

(b) the assets of the scheme are invested in such a way that the value of the assets relative to the value of the scheme's liabilities is highly resilient to short-term adverse changes in market conditions.

Low dependency funding basis

6.—(1) For the purposes of these Regulations, the liabilities of a scheme are calculated on a low dependency funding basis where they are calculated using actuarial assumptions which comply with the requirement in paragraph (2).

(2) The requirement is that further employer contributions would not be expected to be required to make provision for accrued rights to pensions and other benefits under a scheme ("S"), if the presumptions in paragraph (3) were satisfied in relation to S.

(3) The presumptions are—

(a) the funding level of S is 1:1, on a calculation of the liabilities of S which uses those actuarial assumptions; and

(b) the assets of S are invested in accordance with a low dependency investment allocation.

Strength of the employer covenant

7.—(1) For the purposes of these Regulations, the strength of the employer covenant has the meaning given in paragraph (2) and is assessed in accordance with paragraphs (3) to (6).

(2) The strength of the employer covenant means—

(a) the financial ability of the employer in relation to the scheme to support the scheme; and

(b) the level of support for the scheme from any contingent assets (whether from the employer in relation to the scheme, group undertakings or other persons), to the extent that such contingent assets—

(i) are legally enforceable by the trustees or managers of the scheme; and

(ii) will be sufficient to provide that support at such time as the trustees or managers may be required to enforce the support to the scheme.

(3) The strength of the employer covenant is assessed in relation to an assessment of the difference between the value of the assets of the scheme and the value of its liabilities.

(4) For the purposes of paragraph (2)(a), the matters to be considered in assessing the financial ability of the employer in relation to the scheme to support the scheme are—

(a) the cash flow of the employer, as set out in a Code;

(b) the likelihood of an insolvency event, within the meaning of section 121 of the Pensions Act 2004 (insolvency event, insolvency date and insolvency practitioner)(**a**), occurring in relation to the employer; and

(c) other factors which are likely to affect the performance or development of the employer's business, as set out in a Code.

(5) For the purposes of paragraph (3)—

(a) the assessment of the difference between the value of the assets of the scheme and the value of its liabilities is by reference to—

(i) the actuary's estimate of the value of the liabilities calculated on a low dependency funding basis, and

(ii) the actuary's estimate of the solvency of the scheme; and

(b) in considering how much weight is be given to each of the estimates referred to in sub-paragraph (a) for the purposes of the assessment, account is to be given to the likelihood of an event occurring which would result in an amount being treated as a debt due from the employer to the trustees or managers of the scheme under section 75 of the Pensions Act 1995 (deficiencies in the assets)(**b**).

(6) Where an assessment of the strength of the employer covenant is being carried out for the purposes of a determination, review or revision of a funding and investment strategy, or the subsequent preparation, review or revision of a statement of strategy setting out that funding and investment strategy, the actuary's estimates referred to in paragraph (5) are to the estimates set out in the actuarial valuation to which the funding and investment strategy relates.

(7) In this regulation—

(a) in paragraph (2)(b), "contingent assets" includes guarantees; and

(b) in paragraph (5)(a)(ii), "the actuary's estimate of the solvency of the scheme" has the meaning given in regulation 7(6) of the Occupational Pension Schemes (Scheme Funding) Regulations 2005(**c**).

Relevant date

8.—(1) For the purposes of section 221A(3)(b) of the Act (funding and investment strategy) the trustees or managers of the scheme must set and from time to time review and revise a date (the "relevant date") in accordance with this regulation.

(2) The relevant date must not be later than the end of the scheme year in which the date in paragraph (3) falls.

(**a**) Section 121 was amended by the Deregulation Act 2015 (c. 20) Schedule 6 paragraph 2 (1) and (18), S.I. 2005/2893, S.I. 2009/1941, S.I. 2016/481, S.I. 2016/1034 and S.I. 2017/540.

(**b**) 1995 c. 26.

(**c**) S.I. 2005/3377.

(3) The date is the date set out in the actuarial valuation to which the funding and investment strategy relates as the actuary's estimate of the date on which the scheme is expected to (or, if applicable, did) reach significant maturity.

(4) Each time the funding and investment strategy is reviewed the trustees or managers of the scheme must review the relevant date and revise it if it is necessary or appropriate to do so taking account of the provisions of this regulation.

(5) In this regulation—

(a) in paragraph (2), "scheme year" means—

(i) either—

(aa) a year specified for the purposes of the scheme rules in any document which contains those rules; or

(bb) if no such year is specified, the period of 12 months commencing on 1st April or on such other date as the trustees or managers select; or

(ii) such other period (if any) exceeding 6 months but not exceeding 18 months as is selected by the trustees or managers in connection with—

(aa) the commencement or termination of the scheme, or

(bb) a variation of the date on which the year or period referred to in sub-paragraph (i) is to commence;

(b) in paragraph (3), "the actuarial valuation to which the funding and investment strategy relates" means—

(i) where the funding and investment strategy is being determined, reviewed or revised in a case set out in regulation 13(1) or 13(2)(a) to (c), being a case where the time within which a funding and investment strategy must be determined or reviewed (and, if appliable, revised) relates to the effective date of an actuarial valuation, that actuarial valuation;

(ii) where the funding and investment strategy is being reviewed or revised in a case set out in regulation 13(2)(d), the actuarial valuation specified in the direction or, if no such actuarial valuation is specified, the most recent actuarial valuation;

(iii) where the funding and investment strategy is being reviewed or revised in a case set out in regulation 13(2)(e), the most recent actuarial valuation; or

(iv) where the funding and investment strategy is being reviewed or revised in any other case, the most recent actuarial valuation.

Actuarial methods and assumptions for purposes of funding level

9.—(1)In specifying the funding level they intend the scheme to have achieved as at the relevant date, the trustees or managers of the scheme must follow the requirements in paragraph (2).

(2) The requirements are that they must—

(a) use an accrued benefits funding method; and

(b) calculate the liabilities of the scheme on a low dependency funding basis.

(3) Subject to paragraphs (1) and (2), it is for the trustees or managers of a scheme to determine which methods and assumptions are to be used in specifying the funding level they intend the scheme to have achieved as at the relevant date.

Consistency of assumptions

10. Where, for the purposes of a determination or revision of a scheme's funding and investment strategy, the trustees or managers of the scheme are required to use actuarial assumptions which are used in a calculation of the liabilities of a scheme on a low dependency funding basis, the trustees or managers must choose one set of such assumptions which must be used each time such assumptions are required for the purposes of that determination or revision of the strategy.

Matters and principles

11. Schedule 1 sets out matters the trustees or managers of a scheme must take into account, and principles they must follow, in determining or revising the scheme's funding and investment strategy.

Funding and investment strategy – level of detail

12. For the purposes of section 221A(4)(b) of the Act (funding and investment strategy: level of detail)—

(a) the funding and investment strategy must set out the way in which the trustees or managers intend pensions and other benefits under the scheme will be provided over the long term;

(b) in the case of a scheme which has not reached the relevant date, the funding and investment strategy must set out the expected maturity of the scheme at the relevant date;

(c) the information required about the investments the trustees or managers intend the scheme to hold on the relevant date is the proportion of the assets of the scheme intended to be allocated to different categories of investments.

Determination, review and revision of funding and investment strategy

13.—(1) The first funding and investment strategy for a scheme must be determined within the period of 15 months beginning with the effective date of first actuarial valuation obtained by the trustees or managers (whether under section 224 of the Act or otherwise) after the coming into force of these Regulations.

(2) The funding and investment strategy must be reviewed and, if applicable, revised—

(a) within the period of 15 months beginning with the effective date of each subsequent actuarial valuation under section 224(1)(a) of the Act (actuarial valuations and reports);

(b) in the case of an actuarial valuation where the Regulator has given directions under section 231(2)(b)(i) of the Act (powers of the Regulator)—

  (i) if the effective date of the valuation is before the date of the directions, within the period of three months beginning with the date of the directions, and

  (ii) within the period of six months beginning with the effective date of the valuation if that date is the same as or later than the date of the directions;

(c) in the case of an actuarial valuation which does not fall within sub-paragraph (a) or (b), within the period of 15 months beginning with the effective date of the valuation;

(d) where the regulator has given directions under section 231(2)(aa) of the Act, and in a case which does not fall within sub-paragraphs (a) to (c), within the period of three months beginning with the date of the direction; and

(e) as soon as reasonably practicable after any material change in the circumstances of the pension scheme or of the employer in relation to the scheme.

(3) In paragraph (2)(e)—

(a) a material change in the circumstances of the pension scheme includes but is not limited to—

  (i) a material change in the value of the assets of the scheme relative to the value of its liabilities, or

  (ii) a material change in the maturity of the scheme; and

(b) a material change in the circumstances of the employer in relation to the scheme includes but is not limited to a material change in the strength of the employer covenant.

PART 3

STATEMENT OF STRATEGY

Supplementary matters

14. For the purposes of section 221B(2)(d) of the Act (statement of strategy) the matters prescribed are set out in Schedule 2.

Part 2 of statement of strategy – level of detail

15.—(1) This regulation makes provision regarding the level of detail required in Part 2(**a**) of a statement of strategy.

(2) In relation to the requirement to prepare a written statement of the main risks faced by the scheme in implementing the funding and investment strategy and how the trustees or managers intend to mitigate or manage them, the statement of strategy must include a section setting out what action the trustees or managers intend to take in the event that the risks identified materialise.

(3) In relation to the requirement to prepare a written statement of the current level of risk in relation to the investment of the assets of the scheme, and (if applicable) the level of risk the trustees or managers of the scheme intend to take in relation to the investment of the assets of the scheme as the scheme moves along its journey plan, the statement of strategy must include a section setting out—

(a) the proportion of the assets allocated to different categories of investments;

(b) in the case of a scheme which has not reached the relevant date, the proportion of assets intended to be allocated to different categories of investments as the scheme moves along its journey plan; and

(c) for each category of investments set out, such further information as is needed to explain what the level of risk is relating to those investments.

(4) In setting out the matters in paragraphs 3 to 7 and 12 to 17 of Schedule 2, the trustees or managers must explain the evidence on which these are based.

Review and revision of Part 2 of statement of strategy

16. For the purposes of section 221B(4) of the Act, the trustees or managers must review and, if necessary, revise Part 2 of the scheme's statement of strategy and prepare a statement of strategy incorporating the revised Part 2 as soon as reasonably practicable after any review of the scheme's funding and investment strategy, whether or not the funding and investment strategy is revised.

Requirements for chair of trustees

17. A chair of the trustees appointed under section 221B (7) of the Act 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 trustee of the scheme, or a professional trustee body which is a director of that company; or

(**a**) Section 221B(3)(c) of the Pensions Act 2004 provides that "Part 2 of the statement" means the text included in a statement of strategy by virtue of section 221B(1)(b) of that Act (supplementary matters)..

(d) in the case of a scheme established under section 67 of the Pensions Act 2008 (duty to establish a pension scheme)(**a**) a member of the trustee corporation established under section 75 of that Act (trustee corporation).

Form of statement of strategy

18. The statement of strategy must be submitted in a form as set out by the Regulator.

Information to be sent with actuarial valuation

19.—(1) For the purposes of section 224(7A) of the Act (actuarial valuations and reports), the information that the trustees or managers of a scheme must send to the Regulator with a copy of an actuarial valuation is the relevant statement of strategy.

(2) In paragraph (1), "the relevant statement of strategy" means the scheme's statement of strategy setting out the funding and investment strategy for which the actuarial valuation referred to in paragraph (1) is the actuarial valuation to which the funding and investment strategy relates.

PART 4

AMENDMENTS TO REGULATIONS

Amendments to the Occupational Pension Schemes (Scheme Funding) Regulations 2005

20.—(1) The Occupational Pension Schemes (Scheme Funding) Regulations 2005 are amended in accordance with paragraphs (2) to (9).

(2) In regulation 2(1) (interpretation), in the appropriate places, insert—

""the Funding and Investment Strategy Regulations" means the Occupational Pension Schemes (Funding and Investment Strategy and Amendment) Regulations 2022;";

""relevant date" has the meaning given by regulation 2 of the Funding and Investment Strategy Regulations;".

(3) In paragraph (4) of regulation 5 (calculation of technical provisions)—

(a) at the end of sub-paragraph (c), after "scheme," omit "and";

(b) at the end of sub-paragraph (d) omit "." and insert "or made with a view to securing compliance with the principle in sub-paragraph (e), and"; and

(c) after sub-paragraph (d) insert—

"(e) by the time the scheme reaches the relevant date, and thereafter, the assumptions chosen must be consistent with the way in which the trustees or managers intend pensions and other benefits under the scheme will be provided over the long term, as set out in the scheme's funding and investment strategy.".

(4) In paragraph (4) of regulation 7 (actuarial valuations and reports)—

(a) at the end of sub-paragraph (a) omit "and";

(b) at the end of sub-paragraph (b) omit "." and insert—

",

(c) the actuary's estimate of—

(i) the maturity of the scheme as at the effective date of the valuation,

(ii) the maturity of the scheme as at the relevant date, and

(iii) the date on which the scheme is expected to (or, if applicable, did) reach significant maturity, and

(**a**) 2008 c. 30. Section 67 was amended by the Finance (No.3) Act 2010 (c.33) section 30(2).

(d) the actuary's estimate of the funding level of the scheme as at the effective date of the valuation, calculated in accordance with the requirements in regulation 9(2)(a) and (b) of the Funding and Investment Strategy Regulations and expressed as a percentage.".

(5) After paragraph (4) of regulation 7 insert—

"(4A) Where, for the purposes of the actuary's estimates in paragraph (4)(c) and (d), the actuary is required to use actuarial assumptions which are used in a calculation of the liabilities of a scheme on a low dependency funding basis, the actuary must use the set of such assumptions chosen by the trustees or managers of the scheme, in accordance with regulation 10 of the Funding and Investment Strategy Regulations, as the assumptions to be used for the purposes of the determination or revision of the funding and investment strategy for which the actuarial valuation is the actuarial valuation to which the funding and investment strategy relates.".

(6) In paragraph (6) of regulation 7, for "paragraph (4)" substitute "paragraph (4)(b)".

(7) After paragraph (7) of regulation 7 insert—

"(8) Regulation 4 of the Funding and Investment Strategy Regulations applies to the actuary's estimates in paragraph (4)(c).

(9) In paragraph (4)(d), "funding level" has the meaning given by section 221A(3)(a) of the 2004 Act.

(10) In paragraph (4A), "low dependency funding basis" and "the actuarial valuation to which the funding and investment strategy relates" have the meanings given by regulation 2 of the Funding and Investment Strategy Regulations.".

(8) After paragraph (1) of regulation 8 (recovery plan) insert—

"(1A) For the purposes of subsection (3A) of section 226, in determining whether a recovery plan is appropriate having regard to the nature and circumstances of the scheme, the trustees or managers must follow the principle that funding deficits must be recovered as soon as the employer can reasonably afford.".

(9) In paragraphs 1(1), (4) and (6), 4(4), 5(3), 7 and 10 of Schedule 2 (modifications of the Act and Regulations), after "Part 3 of the 2004 Act" each time it occurs insert ", the Funding and Investment Strategy Regulations".

Signed by authority of the Secretary of State for Work and Pensions

Name
Minister for Pensions and Financial Inclusion
Department for Work and Pensions

Address
Date

SCHEDULE 1

Regulation 11

Funding and investment strategy – matters and principles

Matters

1. In determining or revising a scheme's funding and investment strategy, the trustees or managers of the scheme must take into account—

(a) the actuary's estimate of the date on which the scheme is expected to (or, if applicable, did) reach significant maturity, as set out in the actuarial valuation to which the funding and investment strategy relates; and

(b) the actuary's estimate of the maturity of the scheme as at the effective date of the actuarial valuation to which the funding and investment strategy relates, as set out in that actuarial valuation.

Principles

2. The trustees or managers of a scheme must, in determining or revising the scheme's funding and investment strategy, follow the principles set out in paragraphs 3 to 6 of this Schedule.

Minimum requirements on and after the relevant date

3.—(1) The principles set out in sub-paragraph (2) relate to minimum requirements that a scheme is subject to on and after the relevant date.

(2) The principles are—

(a) on and after the relevant date the scheme is subject to the requirement that it has sufficient and appropriate assets such that the funding level of the scheme calculated in accordance with the requirements in regulation 9(2)(a) and (b) is as a minimum 1:1; and

(b) on and after the relevant date the scheme is subject to the requirement that its assets must be invested in accordance with a low dependency investment allocation.

Investment risk on journey plan

4.—(1) The principles set out in sub-paragraph (2) relate to the level of risk that can be taken by the trustees or managers of a scheme in relation to the investment of the assets of the scheme as it moves along its journey plan.

(2) The principles are that the level of risk that can be taken—

(a) is dependent on the strength of the employer covenant (so that more risk can be taken where the employer covenant is stronger and less risk can be taken where the employer covenant is weaker);

(b) subject to sub-paragraph (a), depends on how near the scheme is to reaching the relevant date (so that, subject to the strength of the employer covenant, more risk can be taken where a scheme is a long way from reaching the relevant date and less risk can be taken where a scheme is near to reaching the relevant date).

Risk in relation to calculation of liabilities on journey plan

5.—(1) The principles set out in sub-paragraph (2) relate to the level of risk that can be taken by the trustees or managers of a scheme in determining the actuarial assumptions used for the purposes of calculating the liabilities of the scheme as it moves along its journey plan.

(2) The principles are that the level of risk that can be taken—

(a) is dependent on the strength of the employer covenant (so that more risk can be taken where the employer covenant is stronger and less risk can be taken where the employer covenant is weaker);

(b) subject to sub-paragraph (a), depends on how near the scheme is to reaching the relevant date (so that, subject to the strength of the employer covenant, more risk can be taken where a scheme is a long way from reaching the relevant date and less risk can be taken where a scheme is near to reaching the relevant date).

Liquidity

6.—(1) The principle in sub-paragraph (2) relates to the liquidity of the assets of the scheme—

(a) as it moves along its journey plan; and

(b) on and after the relevant date.

(2) The assets of the scheme must be in investments with sufficient liquidity to enable the scheme to meet expected cash flow requirements and make reasonable allowance for unexpected cash flow requirements.

SCHEDULE 2

Regulation 14

Statement of strategy – supplementary matters

1. For the purposes of section 221B(2)(d) of the Act, the supplementary matters are set out in paragraphs 2 to 19.

Maturity

2. The actuary's estimate of the maturity of the scheme as at the effective date of the actuarial valuation to which the funding and investment strategy relates, as set out in that valuation.

3. For a scheme which has not reached the relevant date, how the maturity of the scheme is expected to change over time.

Investment risk

4. The current level of risk in relation to the investment of the assets of the scheme.

5. For a scheme which has not reached the relevant date—

(a) the level of risk the trustees or managers of the scheme intend to take in relation to the investment of the assets of the scheme as it moves along its journey plan;

(b) how this complies with the principles in paragraph 4 of Schedule 1; and

(c) how the trustees or managers intend to achieve compliance with the principle in paragraph 3(2)(b) of Schedule 1 by the relevant date.

6. For a scheme which has reached the relevant date, how the current level of risk complies with the principle in paragraph 3(2)(b) of Schedule 1.

Liquidity

7. How the investments of the assets of the scheme comply with the principle in paragraph 6 of Schedule 1.

Funding level

8. The funding level of the scheme as at the effective date of the actuarial valuation to which the funding and investment strategy relates, as set out in that valuation.

9. For a scheme which has not reached the relevant date—

(a) the assumptions used in specifying the funding level the trustees or managers intend the scheme to have achieved as at the relevant date; and

(b) how these are different to the assumptions used in calculating the scheme's technical provisions in the actuarial valuation to which the funding and investment strategy relates.

10. For a scheme which has reached the relevant date, the assumptions used in the actuary's estimate of the funding level of the scheme as at the effective date of the actuarial valuation to which the funding and investment strategy relates.

Technical provisions

11. The discount rate or rates and other assumptions used in calculating the scheme's technical provisions in the actuarial valuation to which the funding and investment strategy relates.

12. How the trustees or managers of the scheme expect the discount rate or rates to change over time.

Risk in relation to calculation of liabilities

13. How the level of risk taken in determining the actuarial assumptions used for the purposes of calculating the liabilities of the scheme complies with the principles in paragraph 5 of Schedule 1.

Employer covenant

14. An assessment of the strength of the employer covenant.

15. How long it is reasonable to rely on this assessment.

16. Any changes in the strength of the employer covenant since the last review of the statement of strategy.

General

17. The extent to which the funding and investment strategy is or remains appropriate.

18. Confirmation that the trustees or managers have consulted the employer in relation to the scheme in the preparation or revision of Part 2 of the statement of strategy.

19. Any comments that the employer in relation to the scheme has asked to be included in Part 2 of the statement of strategy.

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

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

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

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

Regulation 8 sets out how the "relevant date" is to be determined. In particular, the relevant date cannot be later than the end of the scheme year in which the scheme is expected to, or did, reach significant maturity.

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

Regulation 10 ensures that when, in determining or revising a scheme's funding and investment strategy, the trustees or managers of a scheme are required to use actuarial assumptions used for the calculation of the liabilities of a scheme on a low dependency funding basis, a single set of such assumptions is used for the purposes of that determination or revision.

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

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

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

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

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

Regulation 15 makes provision regarding the level of detail required in Part 2 of a statement of strategy.

Regulation 16 sets out the period within which Part 2 of a statement of strategy must be reviewed and revised.

Regulation 17 sets out requirements to be met by the person who is the chair of the trustees who is required by section 221B(6) of the 2004 Act to sign the statement of strategy.

Regulation 18 makes provision regarding the form of the statement of strategy and regulation 19 requires that when the trustees or managers of a scheme send a copy of an actuarial valuation to the Regulator they must send with it a copy of the statement of strategy.

Part 4 of these Regulations amends the Occupational Pension Schemes (Scheme Funding) Regulations 2005 (S.I. 2005/3377). The amendments made by regulation 20(2) to (7) and (9) are to take account of the new requirements relating to funding and investment strategies. In particular, they make provision regarding the calculation of technical provisions and provide for additional matters to be included in an actuarial valuation. The amendment made by regulation 20(8) makes provision for determining whether a recovery plan is appropriate having regard to the nature and circumstances of a scheme.

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