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STATUTORY INSTRUMENTS

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**1996 No. 1715**

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

[<sup>F1</sup> PART V

GOVERNANCE OF RELEVANT SCHEMES

**Textual Amendments**

- F1** Pt. V inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **16(1)(b)**

CHAPTER 1

GENERAL

**Duty to appoint a chair of the trustees or managers**

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

(2) The chair of the trustees must be—

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

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

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

(5) Where the chair ceases to hold office as chair for any reason, the trustees or managers must appoint a replacement in accordance with the provisions of this regulation, before the end of the period of three months starting with the date on which the chair ceases to hold that office [<sup>F2</sup>(but see also paragraph (7))].

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

*Status: Point in time view as at 06/04/2018.*

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

[<sup>F3</sup>(7) Paragraph (5) does not apply to a scheme established under section 67 of the Pensions Act 2008.]

#### Textual Amendments

- F2** Words in reg. 22(5) inserted (6.4.2016) by The Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016 (S.I. 2016/427), regs. 1, **5(1)**
- F3** Reg. 22(7) inserted (6.4.2016) by The Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016 (S.I. 2016/427), regs. 1, **5(2)**

#### [<sup>F4</sup>Annual statement regarding governance

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

- (a) in relation to the default arrangement—
- (i) include the latest statement prepared in accordance with regulation 2A (default investment strategy) of the Occupational Pension Schemes (Investment) Regulations 2005 (“the Investment Regulations”);
  - (ii) describe any review undertaken during the scheme year in accordance with paragraph (2) of that regulation;
  - (iii) explain any changes resulting from such a review; and
  - (iv) where no review was undertaken during the scheme year, give the date of the last review;
- (b) describe how the requirements of regulation 24 of these Regulations (requirements for processing financial transactions) have been met during the scheme year;
- (c) in relation to the charges and transaction costs which the trustees or managers are required to calculate in accordance with regulation 25(1)(a) of these Regulations—
- [<sup>F5</sup>(i) state the level of charges and transaction costs applicable to each default arrangement during the scheme year;]
  - [<sup>F6</sup>(ii) state the levels of charges and transaction costs applicable to each fund which members are able to select and in which assets relating to members are invested during the scheme year;]
  - (iii) indicate any information about transaction costs which the trustees or managers have been unable to obtain and explain what steps are being taken to obtain that information in the future; and
  - (iv) explain the trustees’ or managers’ assessment, in accordance with regulation 25(1)(b), of the extent to which the charges and transaction costs represent good value for members;
- [ include, in relation to the charges and transaction costs which trustees or managers are
- <sup>F7</sup>(ca) required to calculate in accordance with regulation 25(1)(a) of these Regulations, an illustrative example of the cumulative effect over time of the application of those charges and costs on the value of a member’s accrued rights to money purchase benefits;]
- (d) describe how the requirements of sections 247 and 248 of the 2004 Act (requirements for knowledge and understanding) have been met during the scheme year and explain how the combined knowledge and understanding of the trustees or managers, together with the advice which is available to them, enables them properly to exercise their functions as trustees or managers of the scheme; and

[<sup>F8</sup>(e) be signed on behalf of the trustees or managers by—

- (i) the chair; or
- (ii) where the chair has ceased to hold office as chair for any reason and a replacement has not yet been appointed, a person appointed by the trustees or managers to act as the chair in the interim period.]

[<sup>F9</sup>(1A) In complying with the requirements imposed by paragraph (1)(c)(i), (ii) and (ca), the trustees or managers must have regard to guidance prepared from time to time by the Secretary of State.]

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

(3) Where the circumstances in paragraph (2) apply and the period to be covered by the first statement is three months or less, paragraph (1) does not apply to that scheme year, but the statement required to be prepared in relation to the following scheme year must include information relating to the period of three months or less of the previous scheme year.

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

#### Textual Amendments

- F4** Reg. 23 inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **17(1)**
- F5** Reg. 23(1)(c)(i) substituted (coming into force in accordance with reg. 1(1)(3) of the amending S.I.) by [The Occupational Pension Schemes \(Administration and Disclosure\) \(Amendment\) Regulations 2018 \(S.I. 2018/233\)](#), **reg. 2(2)**
- F6** Reg. 23(1)(c)(ii) substituted (coming into force in accordance with reg. 1(1)(3) of the amending S.I.) by [The Occupational Pension Schemes \(Administration and Disclosure\) \(Amendment\) Regulations 2018 \(S.I. 2018/233\)](#), **reg. 2(3)**
- F7** Reg. 23(1)(ca) inserted (coming into force in accordance with reg. 1(1)(3) of the amending S.I.) by [The Occupational Pension Schemes \(Administration and Disclosure\) \(Amendment\) Regulations 2018 \(S.I. 2018/233\)](#), **reg. 2(4)**
- F8** Reg. 23(1)(e) substituted (6.4.2016) by [The Occupational Pension Schemes \(Scheme Administration\) \(Amendment\) Regulations 2016 \(S.I. 2016/427\)](#), regs. 1, **6**
- F9** Reg. 23(1A) inserted (coming into force in accordance with reg. 1(1)(3) of the amending S.I.) by [The Occupational Pension Schemes \(Administration and Disclosure\) \(Amendment\) Regulations 2018 \(S.I. 2018/233\)](#), **reg. 2(5)**

#### [<sup>F10</sup>Requirements for processing financial transactions

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

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

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

*Status: Point in time view as at 06/04/2018.*

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

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

#### Textual Amendments

**F10** Reg. 24 inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **18**

#### [<sup>F11</sup> Assessment of charges and transaction costs

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

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

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

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

#### Textual Amendments

**F11** Reg. 25 inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **19**

### [<sup>F12</sup> CHAPTER 3

#### RELEVANT MULTI-EMPLOYER SCHEMES

#### Textual Amendments

**F12** It is provided that Ch. 3 is inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **22**

#### Annual statement regarding governance: relevant multi-employer schemes

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

- (a) how the requirements of regulation 27(2) (majority of trustees and chair to be non-affiliated) have been met during the year;
- (b) where a trustee who is non-affiliated (within the meaning of regulations 27 and 28) was appointed during the year, details of how the requirement of regulation 28(1) (open and transparent appointment process) was met;

- (c) details of the arrangements in place during the year to meet the requirement of regulation 29 (representation of the views of members to the trustees or managers).

### Appointment of trustees

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

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

[<sup>F13</sup>(2A) Paragraphs (1) and (2) override any provision of a relevant multi-employer scheme to the extent that it conflicts with those paragraphs.]

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

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

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

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

(6) Where a trustee of a relevant multi-employer scheme—

- (a) ceases to be a trustee for any reason; or
- (b) in the case of a trustee who was non-affiliated, ceases to be non-affiliated, the requirements of paragraphs (1) and (2) must be met before the end of the period of three months starting with the date on which the former trustee ceases to be a trustee or, as the case may be, the trustee ceases to be non-affiliated.

(7) Where a relevant multi-employer scheme was established, or became a relevant multi-employer scheme, before 6th April 2015 and the requirements of paragraphs (1) or (2) are not met on that date, the requirement in question must be met before the end of the period of three months starting with that date.

[<sup>F14</sup>(7A) Where a relevant multi-employer scheme was established by or under an enactment, other than a scheme established under section 67 of the Pensions Act 2008, before 6th April 2016 and the requirements of paragraphs (1) or (2) are not met on that date, the requirement in question must be met before the end of the period of six months starting with that date.]

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

#### Textual Amendments

**F13** Reg. 27(2A) inserted (6.4.2016) by The Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016 (S.I. 2016/427), regs. 1, 7(1)

*Status: Point in time view as at 06/04/2018.*

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

**F14** Reg. 27(7A) inserted (6.4.2016) by The Occupational Pension Schemes (Scheme Administration) (Amendment) Regulations 2016 (S.I. 2016/427), regs. 1, 7(2)

### **Appointment of trustees: trustees who are non-affiliated**

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

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

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

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

- (a) whether the person—
  - (i) is a director, manager, partner or employee of an undertaking which provides advisory, administration, investment or other services in respect of the scheme (a “service provider”) or an undertaking which is connected to a service provider; or
  - (ii) has been such a director, manager, partner or employee during the period of five years ending with the date of the person’s appointment as a trustee;
- (b) whether the person receives any payment or other benefit from a service provider, other than—
  - (i) a payment or other benefit in respect of a role in the governance of a personal pension scheme in which the person is required to act in the interests of some or all of the scheme members; or
  - (ii) a payment in respect of the person’s role as trustee of the relevant multi-employer scheme;
- (c) whether or not, in the person’s relationship with a service provider, the person’s obligations to the service provider conflict with their obligations as a trustee of the relevant multi-employer scheme and whether their obligations as a trustee will take priority in the case of a conflict.

(4) A trustee who is an individual is not to count as non-affiliated for the purposes of regulation 27(2) for—

- (a) any one period of more than five years; or
- (b) subject to paragraph (5), more than ten years in total.

(5) No period of appointment of a trustee who is an individual is to be taken into account for the purposes of paragraph (4)(b) if more than five years have elapsed since the trustee last held office as a trustee of the same relevant multi-employer scheme.

(6) Paragraphs (1) to (5) apply to an individual who is a director of a corporate trustee and to whom regulation 27 applies as if he or she were a trustee as they apply to a trustee who is an individual.

(7) Where a trustee who is to count as non-affiliated for the purposes of regulation 27(2) is a professional trustee body—

- (a) the trustee is not to count as non-affiliated for any one period of more than five years;
  - (b) a nominated individual must act as representative of the trustee; and
  - (c) the nominated individual may not act as representative of the trustee for more than ten years in total.
- (8) For the purposes of paragraph (3)(a), two undertakings are “connected” if they are—
- (a) part of a group of companies consisting of a holding company and one or more subsidiaries within the meaning of section 1159(1) of the Companies Act 2006; or
  - (b) partnerships, each having the same persons as at least half of its partners.

### **Representation of members**

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

**Status:**

Point in time view as at 06/04/2018.

**Changes to legislation:**

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