

**2000 No. 1403****PENSIONS****The Stakeholder Pension Schemes  
Regulations 2000**

<i>Made</i> - - - -	<i>24th May 2000</i>
<i>Laid before Parliament</i>	<i>25th May 2000</i>
<i>Coming into force</i> - -	<i>1st October 2000</i>
<i>Part I to III and V</i> - -	
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## SCHEDULES

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The Secretary of State for Social Security, in exercise of the powers conferred upon him by the provisions set out in Schedule 1 and of all other powers enabling him in that behalf, after consultation with such persons as he considers appropriate<sup>(a)</sup>, hereby makes the following Regulations:—

## PART I

### GENERAL

#### Citation, commencement and interpretation

**1.**—(1) These Regulations may be cited as the Stakeholder Pension Schemes Regulations 2000.

(2) Parts I to III and V of these Regulations shall come into force on 1st October 2000 ▶<sup>1</sup>and—

- (a) regulation 23 shall come into force on 6th April 2001; and
- (b) Part IV (except regulation 23) shall come into force on 8th October 2001. ◀

(3) In these Regulations—

“the Act” means the Welfare Reform and Pensions Act 1999<sup>(b)</sup>;

“the 1993 Act” means the Pension Schemes Act 1993;

“the 1995 Act” means the Pensions Act 1995;

▶<sup>2</sup>“address” means postal address (except in the phrases “postal address”, “electronic address” and “website address”); ◀

“beneficiary”, in relation to a stakeholder pension scheme, means any person who has rights under the scheme which have arisen as a result of the death of a member of the scheme;

▶<sup>3</sup> ◀

▶<sup>4</sup> ◀

▶<sup>5</sup>“dilution levy” has the meaning given by the FSA handbook;

▶<sup>2</sup>“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000; ◀

“the FSA handbook” means the handbook made by the Financial Services Authority under section 153 of the Financial Services and Markets Act 2000<sup>(c)</sup> ◀

▶<sup>6</sup>“illustration date” means, in relation to any information provided, or to be provided, under regulation ▶<sup>7</sup>18A(2) ◀, the date specified by the trustees or manager as the date by reference to which amounts are calculated for the purpose of providing information; ◀

▶<sup>8</sup> ◀

<sup>1</sup>Word & sub-para. (a) & (b) substituted in reg. 1(2) by reg. 2 of S.I. 2001/934 as from 5.4.01.

<sup>2</sup>Defn. of “address”. “electronic communication” inserted by reg. 4(2)(a)(i)-(iii) of S.I. 2010/2659 as from 1.12.10.

<sup>3</sup>Defn. of “the Board for Actuarial Standards” omitted by para. 6(a) of Sch. to S.I. 2012/1817 as from 9.8.12.

<sup>4</sup>Defn. of “contracted-out employment” omitted by reg. 14(2) of S.I. 2011/1245 as from 6.4.12.

<sup>5</sup>Defn. of “dilution levy” substituted and definition of “the FSA handbook” inserted by reg. 2(2)(a) & (b) of S.I. 2005/577 as from 6.4.05.

<sup>6</sup>Defn. “illustration date” inserted by reg. 4(1)(b) of S.I. 2002/1383 as from 6.4.03.

<sup>7</sup>Words substituted in defn. of “illustration date” in reg. 1(3) by para. 9(2)(a) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

<sup>8</sup>Defn. of “the Income and Corporation Taxes Act” revoked by reg. 8(2)(a) of S.I. 2013/459 as from 6.4.13.

(a) See section 185(1) of the Pension Schemes Act 1993 (c. 48) and section 120(1) of the Pensions Act 1995 (c. 26).

(b) 1999 c. 30.

(c) 2000 c. 8.

## Reg. 1

<sup>1</sup>Defn. of “insurance company” revoked by art. 595(1) of S.I. 2001/3649 as from 1.12.01.

<sup>2</sup>Defn. of “insurer” inserted by art. 595(1)(a) of S.I. 2001/3649 as from 1.12.01.

<sup>3</sup>Defn. of “lifestyling” inserted and defn. of “investment trust” omitted by reg. 2(2)(c) & (d) of S.I. 2005/577 as from 6.4.05.

<sup>4</sup>Defns. of “non-contributing member” and “retirement date” inserted by reg. 4(1)(c)-(d) of S.I. 2002/1383 as from 6.4.03.

<sup>5</sup>Words in defn. of “non-contributing member” & “retirement date” omitted & substituted & defn. of “relevant guidance” substituted by para. 9(2)(b)-(d) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

<sup>6</sup>Para. (c) of defn. of “pension arrangement” substituted by art. 20(2)(a) of S.I. 2006/744 as from 6.4.06.

<sup>7</sup>Defn. of “scheme instruments” inserted by reg. 2(3)(b) of S.I. 2001/934 as from 5.4.01.

▶<sup>1</sup>◀

▶<sup>2</sup>“insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance;◀

▶<sup>3</sup>“lifestyling” has the meaning given by regulation 10A(5);◀

▶<sup>3</sup>◀

“minimum contributions” means amounts paid by the Inland Revenue in accordance with section 43 of the 1993 Act (payment of minimum contributions to personal pension schemes)(a);

“minimum payments” means payments made to an occupational pension scheme in respect of a person’s employment by virtue of which (subject to there being in force a contracting-out certificate issued by the Inland Revenue in accordance with Chapter I of Part III of the 1993 Act) that employment is contracted-out employment by reference to the scheme under section 8(1) of the 1993 Act (meaning of “contracted-out employment” and “minimum payment”)(b);

▶<sup>4</sup>“non-contributing member” means—

(a) ▶<sup>5</sup>◀

(b) ▶<sup>5</sup>◀ a member in respect of whom no further contributions to the scheme are due or expected after the illustration date;◀

“pension arrangement” means—

(a) an annuity contract;

(b) an insurance policy; or

▶<sup>6</sup>(c) a qualifying recognised overseas pension scheme as defined in section 169 of the Finance Act 2004;◀

which has effect, or is capable of having effect, so as to provide benefits on termination of employment or on death or retirement, to or in respect of earners;

“property” includes land;

“qualifying scheme” shall, in respect of an employer, include any stakeholder pension scheme which has at any time been designated by the employer under section 3(2);

▶<sup>5</sup>“relevant guidance” means the document entitled “AS TM1: Statutory Money Purchase Illustrations” that is adopted or prepared, and from time to time revised, by the Financial Reporting Council Limited;◀

“reporting accountant” has the meaning given to it by regulation 11(3);

▶<sup>4</sup>“retirement date” means, in relation to a member—

(a) the date which he has specified to the trustees or manager, and which is acceptable under the rules of the scheme, for the purpose of regulation ▶<sup>5</sup>18A(2);◀ or

(b) where no acceptable date has been specified for that purpose, the date specified by the trustees or manager as being the appropriate date for the purpose of regulation ▶<sup>5</sup>18A(2);◀

▶<sup>7</sup>“scheme instruments” means instruments establishing a stakeholder pension scheme;◀

(a) Section 43(1) was amended by paragraph 42 of Schedule 5 to the Pensions Act 1995 and paragraph 47(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 43(4) to (6) was amended by paragraph 47(2) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(b) Section 8(1) was amended by section 136(2) of the Pensions Act 1995 and paragraph 21 of Schedule 5 to that Act and by paragraph 33 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

- <sup>1</sup>“securities” means investments of the following kinds—
- (a) shares,
  - (b) instruments creating or acknowledging indebtedness,
  - (c) government and public securities,
  - (d) instruments giving entitlements to investments,
  - (e) certificates representing securities,
- <sup>2</sup>“statement year” has the meaning given by regulation 18; ◀
- <sup>3</sup> ◀
- <sup>4</sup>“tax relief” has the meaning given by Chapter 4 of Part 4 of the Finance Act 2004 (registered pension schemes: tax reliefs and exemptions); ◀
- “transfer payment” means a payment in respect of a person’s accrued rights under a pension scheme or pension arrangement made with a view to acquiring rights under another pension scheme or pension arrangement for that person; and
- “with-profits fund” means a fund, maintained by an ►<sup>5</sup>insurer◀ in respect of a particular part of its long-term business for which—
- (a) separate accounting records are maintained by the ►<sup>5</sup>insurer◀ in respect of all income and expenditure relating to that part of its business; and
  - (b) the benefits payable in respect of policies allocated to that fund are determined partly by reference to a discretion exercisable by any person.
- <sup>6</sup>(3A) The definitions of “insurer” and “securities” in paragraph (3) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act.F
- (4) ►<sup>7</sup> ◀
- (4A) ►<sup>7</sup> ◀
- (5) Sections 249 and 435 of the Insolvency Act 1986 (connected and associated persons)(a) and section 74 of the Bankruptcy (Scotland) Act 1985 (associated persons), apply for the purposes of ►<sup>8</sup>regulations 4(3)◀ as they apply for the purposes of those Acts respectively.
- (6) For the purposes of these Regulations and section 1(8) and (9) (which provide that stakeholder pension schemes must have tax exemption or tax-approval and must not refuse to accept transfer payments except in so far as necessary to ensure that the scheme has such exception or approval) ►<sup>9</sup>“tax-registration” and “tax-registered” mean registration or, as the case may be, registered under section 153 of the Finance Act 2004. ◀
- (7) In these Regulations, unless the context otherwise requires, references to a section are to a section of the Act.
- (8) ►<sup>10</sup> ◀

<sup>1</sup>Defn. of “securities” substituted by reg. 595(1)(b) of S.I. 2001/3649 as from 1.12.01.

<sup>2</sup>Defn. of “statement year” inserted by reg. 4(2)(a)(v) of S.I. 2010/2659 as from 1.12.10.

<sup>3</sup>Words deleted in defn. of “securities” by reg. 2(2) of S.I. 2005/577 as from 6.4.05.

<sup>4</sup>Defn. of “tax relief” substituted by art. 20(2)(a) of S.I. 2006/744 as from 6.4.06.

<sup>5</sup>Words substituted in defn. of “with-profits fund” by art. 40 of S.I. 2002/1555 as from 3.7.02.

<sup>6</sup>Reg. 1(3A) inserted by art. 595(2) of S.I. 2001/3649 as from 1.12.01.

<sup>7</sup>Reg. 1(4) & (4A) omitted by reg. 4(2)(b) of S.I. 2010/2659 as from 1.12.10.

<sup>8</sup>Words in reg. 1(5) substituted by reg. 2(2) of S.I. 2002/2098 as from 9.9.02.

<sup>9</sup>Words in reg. 1(6) substituted by art. 20(2)(b) of S.I. 2006/744 as from 6.4.06.

<sup>10</sup>Reg. 8 omitted by reg. 2(4) of S.I. 2005/577 as from 6.4.05.

(a) 1986 c. 45. Section 249 was amended by section 90, Schedule 15 of the Building Societies Act 1986 (c. 53) and section 23, Schedule 10 of the Friendly Societies Act 1992 (c. 40).

## PART II

## CONDITIONS APPLYING TO STAKEHOLDER PENSION SCHEMES

**Manner of establishment**

2.—(1) A stakeholder pension scheme may (where not established under a trust) be established by means of one or more instruments in writing which provide for one or more contracts to be entered into between the manager of the scheme and each member of the scheme, or a person acting on his behalf.

<sup>1</sup>Regs. 2(2) substituted for paras. (2) & (3) by reg. 8(3) of S.I. 2013/459 as from 6.4.13..

▶<sup>1</sup>(2) The manager of the scheme must be a person who is mentioned in section 154(1)(b) of the Finance Act 2004 (persons by whom registered pension scheme may be established).◀

**Requirements applying to all stakeholder pension schemes as regards instruments establishing such schemes**

<sup>2</sup>Words substituted in reg. 3(1) by reg. 3 of S.I. 2001/934 as from 5.4.01.  
<sup>3</sup>Words substituted in reg. 3(1) by reg. 3(2) of S.I. 2001/104 as from 14.2.01.

3.—(1) Subject to paragraph (2), ▶<sup>2</sup>the scheme instruments◀ must prohibit ▶<sup>3</sup>the acceptance of credits within the meaning of section 29 (pension sharing: creation of pension debits and credits), contributions and transfer payments◀ to the scheme before 6th April 2001.

(2) Paragraph (1) shall not apply to a scheme in respect of which an application for registration under section 2 (registration of stakeholder pension schemes) is first made on or after 6th April 2001.

(3) The scheme instruments must require that no member is required to make any choice as regards the investment under the scheme of any payment made to it by him or on his behalf, any amount credited to the member's account in respect of a credit within the meaning of section 29 (pension sharing: creation of pension debits and credits), or any income or capital gain arising from the investment of such a payment or credit.

<sup>4</sup>Words substituted in reg. 3(4) by reg. 7(2) of S.I. 2005/577 as from 6.4.05.

(4) The scheme instruments must, except to the extent permitted under regulations 13 ▶<sup>4</sup>, 14 or 14B◀ prohibit the use of—

- (a) any payment made to the scheme by or on behalf of a member;
- (b) any amount credited to a member's account in respect of a credit within the meaning of section 29 (pension sharing: creation of pension debits and credits);
- (c) any income or capital gain arising from the investment of such a payment or credit; or
- (d) the value of his rights under the scheme;

in any way which does not result in the provision of benefits for or in respect of the member.

(5) The scheme instruments must require that—

- (a) if the scheme ceases to be registered under section 2 the winding-up of the scheme be commenced on the date on which it is notified in writing by the ▶<sup>5</sup>◀ Authority that it is no longer so registered;
- (b) if the trustees or manager fix a time for winding-up a scheme for any reason other than because the scheme ceases to be registered under section 2, the

<sup>5</sup>Words omitted in reg. 3(5)(a) by reg. 16(2) of S.I. 2009/615 as from 6.4.09.

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- (a) 1988 c. 1. Section 632(1) was amended by the Personal Pension Schemes (Establishment of Schemes) Order 1988, S.I. 1988/993 and by the Personal Pension Schemes (Establishment of Schemes) Order 1997, S.I. 1997/2388.
  - (b) S.I. 1997/1154, amended by S.I. 1997/1715.

winding-up of the scheme be commenced at the earliest time fixed by the trustees or manager as the time from which steps for the purposes of winding-up are to be taken;

- (c) within 2 weeks of the date of commencement of any winding-up, the trustees or manager notify in writing any employers whom they know to have designated the scheme for the purposes of section 3 (duty of employers to facilitate access to stakeholder pension schemes) of the fact of, and the reason for, the winding-up including, where the scheme has ceased to be registered under section 2, the reason for the cessation of registration;
- (d) any contributions made to a scheme after the date of commencement of any winding-up must be repaid—
  - (i) to the member, to the extent of his contributions; and
  - (ii) as to any remainder, to his employer;
- (e) subject to paragraphs (8) and (9) below, on any winding-up all rights under the scheme shall be discharged by the trustees or managers of the scheme within 12 months of the commencement of winding-up, or as soon thereafter as is practicable, by the making of transfer payments—
  - (i) to other stakeholder pension schemes, or schemes registered under Article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999<sup>(a)</sup>; or
  - (ii) in accordance with requests by one or more members or beneficiaries in respect of their rights, to the trustees or managers of pension schemes or pension arrangements which are not schemes mentioned in head (i) above,

in accordance with paragraphs (6) and (7) below and regulation 6 or, where regulation 7 applies, with regulation 7; and

- (f) if the scheme fails to complete winding-up within 12 months of commencing winding-up proceedings, the trustees or manager notify the <sup>1</sup>Authority of that fact within one month of so failing to complete the winding-up.

<sup>2</sup>(5A) <sup>3</sup>Subject to paragraph (10) and to regulation 17(1) and (5), <sup>4</sup>except to the extent necessary to ensure that the scheme <sup>4</sup>maintains its tax-registration<sup>4</sup>, the scheme instruments must preclude membership of the scheme being restricted by reference to—

- (a) financial status;
- (b) the amount of contributions to be made to the scheme;
- (c) the manner in which contributions may be made to the scheme.<sup>4</sup>

<sup>5</sup>(5B) The scheme instruments must, except to the extent necessary to ensure that the scheme <sup>4</sup>maintains its tax-registration<sup>4</sup>, permit as means of payment of contributions to the scheme payment from a bank account or building society account by—

- (a) cheque;
- (b) direct debit;
- (c) standing order;
- (d) direct credit (other than standing order),

and (for the avoidance of doubt) for the purposes of this paragraph, those means of payment do not include payment by cash, credit card or debit card (or by any contribution thereof).<sup>4</sup>

(6) A transfer payment referred to in paragraph (5)(e) must be of an amount not less than the cash equivalent of the member's rights under the scheme, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act (calculation of cash equivalents)<sup>(b)</sup> on the date on which the payment is made.

<sup>1</sup>Words omitted in reg. 3(5)(f) by reg. 16(2) of S.I. 2009/615 as from 6.4.09.

<sup>2</sup>Para. (5A) inserted in reg. 3 by reg. 3(3) & (4) of S.I. 2001/104 as from 14.2.01.

<sup>3</sup>Words substituted in reg. 3(5A) by reg. 3(3) of S.I. 2001/934 as from 5.4.01.

<sup>4</sup>Words substituted in paras. (5A) & (5B) by art. 20(3) of S.I. 2006/744 as from 6.4.06.

<sup>5</sup>Para. (5B) inserted in reg. 3 by reg. 3(4) of S.I. 2001/934 as from 5.4.01.

(a) S.I. 1999/3147 (N.I. 11).

(b) Section 97 was amended by paragraph 4(a) to (c) of Schedule 6 to the Pensions Act 1995.

**Regs. 3-6**

<sup>1</sup>Reg. 6(7) omitted by art. 20(2) of S.I. 2011/1246 as from 6.4.12.

(7) ▶<sup>1</sup>◀

(8) Paragraph (5)(e) does not apply to rights to which effect is given under the scheme by the payment of an annuity (not being a deferred annuity) or a lump sum either to the member or, on or after his death, to another person.

(9) For the purposes of paragraph (8), a deferred annuity is an annuity under the terms of which payment does not commence immediately but at a time in the future.

<sup>2</sup>Para. 10 inserted in reg. 3 by reg. (4) of S.I. 2001/104 as from 14.2.01.

▶<sup>2</sup>(10) Paragraph (5A) shall not preclude membership being restricted by reference to—

- (a) employment with a particular employer or in a particular trade or profession; or
- (b) membership of a particular organisation. ◀

*Reg. 3(11) inserted by reg. 3(4) of S.I. 2001/104 from 14.2.01 and deleted by reg. 3(5) of S.I. 2001/934 as from 5.4.01.*

(11) The scheme instruments may permit restrictions on payment of contributions by means of cash or a credit card.

**Additional requirements as regards instruments establishing a stakeholder pension scheme established under a trust**

<sup>3</sup>Regs. 4(1) & (2) deleted & words in reg. 4(3) substituted by reg. 4 of S.I. 2001/104 as from 14.2.01.

4.—(1) ▶<sup>3</sup>◀

(2) ▶<sup>3</sup>◀

(3) ▶<sup>3</sup>▶<sup>4</sup>The scheme instruments of a ◀ scheme established under a trust (“the trust instruments”) must require that ◀—

- (a) unless sub-paragraph (b) applies, at least one trustee and at least one-third of the total number of trustees is neither connected with nor an associate of any person providing services to or otherwise managing the scheme (other than as a trustee);
- (b) where a company is trustee of the scheme and there is no trustee of the scheme who is not a company, at least one of the directors of the company and at least one-third of the total number of its directors is neither connected with nor an associate of any person providing services to or otherwise managing the scheme (other than as a trustee).

(4) The trust instruments must not—

- (a) enable any of the provisions required by regulation 3 ▶<sup>4</sup>, by this regulation or by regulation 6 ◀ to be modified or disappplied;
- (b) have a condition that the trustees must obtain the consent of any person before making any decision about investments for the purposes of the scheme; or
- (c) except in so far as otherwise required by or under any enactment, preclude the trustees from amending the trust instruments to provide for different investments to be held for the purposes of the scheme.

5. ▶<sup>5</sup>◀

<sup>5</sup>Reg. 5 deleted by reg. 5 of S.I. 2001/104 as from 14.2.01.

**Procedure for discharging rights on winding-up**

6.—(1) The scheme instruments must require that, where the winding-up of a stakeholder pension scheme has commenced, the trustees or manager must, except in cases where regulation 7 applies, make transfer payments in respect of members’ rights in accordance with the procedure set out in paragraphs (2) to (9) of this regulation.



(2) The trustees or manager shall no later than 4 months after the commencement of winding-up give notice to each member stating—

- (a) that they propose to make a transfer payment in respect of his rights under the scheme to their choice of a stakeholder pension scheme or a scheme registered under Article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999, that scheme to be named in the notice, unless the member applies for the transfer payment to be made to a pension scheme or pension arrangement of his choice;
- (b) the value of the member's rights at the date that the scheme commenced winding-up, being an amount not less than the cash equivalent of those rights on that date, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act (calculation of cash equivalents); and
- (c) that, unless the member applies within 4 months of the date of the notice for a transfer payment to be made to a pension scheme or pension arrangement of his choice, a transfer payment may be made without his consent to the scheme named in the notice as the scheme of the trustees' or manager's choice.

(3) If any member makes an application for a transfer payment to be made to a pension scheme or pension arrangement of his choice (whether or not the application is made under section 95 of the 1993 Act (ways of taking right to cash equivalent))(a) the trustees or manager shall, unless paragraph (4) of this regulation applies, do what is needed to carry out what the member requires within one month of receiving the member's application.

(4) This paragraph applies where—

- (a) it is not possible for the trustees or manager to do what is needed to carry out what the member requires within 12 months of the date of commencement of winding-up;
- (b) it would contravene the terms of the scheme's ►<sup>1</sup>tax-registration◄, or any provision of the scheme required to be included as a condition of any such ►<sup>1</sup>registration◄, for the trustees or manager to do what is needed to carry out what the member requires; or
- (c) the member withdraws his application before the trustees have or the manager has done what is needed to carry out what he requires.

<sup>1</sup>Words substituted in reg. 6(4)(b) by art. 20(4)(a) & (b) of S.I. 2006/744 as from 6.4.06.

(5) Where paragraph (4) ►<sup>2</sup>◄ applies in relation to the first such application made by the member as is mentioned in paragraph (3), the trustees or manager shall as soon as practicable give notice to the member stating—

- (a) ►<sup>2</sup>where sub-paragraph (a) or (b) of paragraph (4) applies,◄ that they cannot carry out what he requires and the reasons why not;
- (b) that if he does not make a further application such as is mentioned in paragraph (3) they propose to make a transfer payment in respect of his rights as set out in the notice given in accordance with paragraph (2); and
- (c) that, unless he makes such further application within one month of the date of the notice given in accordance with this paragraph, such a transfer payment may be made without his consent.

<sup>2</sup>Words deleted in reg. 6(5) and (6)(c), words inserted in (5)(a) and (6)(c)(i) and (6)(b) omitted by reg. 3 of S.I. 2005/577 as from 6.4.05.

(6) In any case where—

- (a) the trustees do not or the manager does not receive any such application as is mentioned in paragraph (3) within 4 months of the date of the notice given in accordance with paragraph (2);
- (b) ►<sup>2</sup>◄
- (c) paragraph (4) ►<sup>2</sup>◄ applied in respect of the first such application made by the member and—
  - (i) the trustees or manager, having given notice to the member ►<sup>2</sup>in accordance with◄ paragraph (5), do not receive any such further application as is mentioned in that paragraph within one month of the date of the notice, or
  - (ii) the trustees or manager, having given such notice, have received a further application such as is mentioned in paragraph (5) within one month of that date but paragraph (4) applies in respect of that further application,

(a) Section 95 was amended by paragraph 3 of Schedule 6 to the Pensions Act 1995.

## Regs. 6-8

the trustees or manager may make a transfer payment in respect of the member's rights to the pension scheme named in the notice mentioned in paragraph (2) as the scheme of their choice.

(7) The trustees or manager shall, within one month of making a transfer payment under paragraph (3) or (6), give notice to the member stating the amount of the payment, the name and address of the scheme to which it has been made and the date on which it was made.

<sup>1</sup>Reg. 6(8) omitted & reg. 7(1) substituted by reg. 4(3) & (4) of S.I. 2010/2659 as from 1.12.10.

(8) ►<sup>1</sup>◀

(9) For the purposes of this regulation "member" includes "beneficiary".

**Procedure for discharging on winding-up rights of members with whom the trustees or manager have lost contact**

7.—►<sup>1</sup>(1) This regulation applies in respect of any member—

- (a) whose present postal address and electronic address is not known to the trustees or manager;
- (b) in respect of whom the trustees or manager have sent correspondence to their last known—
  - (i) postal address and that correspondence has been returned, or
  - (ii) electronic address and the trustees or manager are satisfied that that correspondence has not been delivered; and
- (c) in respect of whom no contribution has been made to the scheme by or on behalf of the member during the two calendar years preceding the commencement of winding-up of the scheme.◀

(2) In cases where this regulation applies, the trustees or manager shall on the winding-up of the scheme make a transfer payment in respect of the member's rights to their choice of a stakeholder pension scheme, or to a scheme registered under Article 4 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and need give no notice of the transfer payment to the member either before or after it is made.

**Requirement applying to all stakeholder pension schemes as regards investments**

8.—(1) For the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) Except where monies are held temporarily on deposit in the course of dealing in assets for the purposes of the scheme, the trustees or manager must ensure that there is derived, from any part of the funds of the scheme that are held on deposit, a return accruing on a daily basis that is, net of any fees or charges, not less than the base rate minus 2 per cent. per annum.

(3) Where the base rate is increased, paragraph (2) shall apply as if the reference to the base rate in that paragraph were—

- (a) within one calendar month of the date of the increase, a reference to the base rate immediately before the increase; and
- (b) after that calendar month has elapsed, a reference to the base rate as increased.

<sup>2</sup>Words substituted in reg. 8(4) and (5) by reg. 4 of S.I. 2005/577 as from 6.4.05.

<sup>3</sup>Words substituted in reg. 8(4) & (5) by art. 596(1) & (3) of S.I. 2001/3649 as from 1.12.01.

(4) The trustees or manager shall not ►<sup>2</sup>directly hold, for the purposes of the scheme,◀ units or shares in a collective investment scheme (within the meaning of ►<sup>3</sup>section 235 of the Financial Services and Markets Act 2000◀ (interpretation: definition of 'collective investment scheme')(a) unless it is a requirement of the collective investment scheme that the purchase and sale price of those units or shares shall, at any given time, not differ from each other.

(5) The trustees or manager shall not ►<sup>2</sup>directly hold, for the purposes of the scheme,◀ rights under a contract of insurance which are expressed as units or shares in funds held by the ►<sup>3</sup>insurer◀ unless it is a requirement of the contract of insurance that the purchase and sale price of those units or shares shall, at any given time, not differ from each other.

(a) 1986 c. 60. Relevant amending instruments are S.I. 1988/803, 1990/349, 1995/3275, 1996/2996 and 1997/32.

(6) In this regulation—

“base rate” means the rate for the time being quoted by the reference banks as applicable to sterling deposits or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence;

▶“contract of insurance” means a contract—

- (a) which, or any part of which, is of one or more of the following kinds—
  - (i) life and annuity,
  - (ii) linked long term,
  - (iii) pension fund management, and
- (b) which is carried out by an insurer who has permission, as the case may be, under—
  - (i) Part 4 of the Financial Services and Markets Act 2000, or
  - (ii) paragraph 15 of Schedule 3 to that Act,

Defn. of “contract of insurance” and “reference banks” substituted, defn. of “deposit” revoked and para. 7 inserted by reg. 596(2) and (3) of S.I. 2001/3649 as from 1.12.01.

to effect or carry out contracts of insurance of that kind;◀

▶◀

▶“reference banks” means the seven largest persons for the time being who—

- (a) have permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits,
- (b) are incorporated in the United Kingdom and carrying on there a regulated activity of accepting deposits; and
- (c) quote a base rate applicable to sterling deposits,

and for the purpose of this definition the size of a person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 736 of the Companies Act 1985), as shown in the audited end of year accounts last published before that time.◀

▶(7) References to a “deposit” in this regulation, together with the definitions of “contract of insurance” and “reference banks” in paragraph (6) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 of that Act.◀

#### **Requirement for statement of investment principles for schemes not established under trust**

9.—(1) Subject to paragraph (2), for the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) This regulation does not apply to a scheme established under a trust.

(3) The manager of the scheme must secure that there is prepared, maintained and from time to time revised a written statement of the principles governing decisions about investments for the purposes of the scheme.

(4) The statement must cover the manager’s policy about the following matter—

- (a) the kinds of investments to be held;
- (b) the balance between different kinds of investments;
- (c) risk;
- (d) the expected return on investments;
- (e) the realisation of investments;
- (f) the extent (if at all) to which social, environmental or ethical considerations are taken into account in the selection, retention and realisation of investments; and
- (g) the exercise of the rights (including voting rights) attaching to investments.

## Regs. 9-10

(5) Subject to paragraph (6), where a copy of the latest statement mentioned in paragraph (3) is requested by a member, the statement shall, within 2 months of the request, be furnished to that member either—

- (a) free of charge; or
- (b) where a charge is made, at an amount that does not exceed the expense incurred in copying, posting and packing the statement.

(6) A copy of the statement mentioned in paragraph (3) need not be furnished to the same person within 12 months of the person last being given such a copy unless the statement has changed during that 12 month period.

(7) In this regulation “member” includes “beneficiary”.

**Requirement for manager of schemes not established under a trust to have regard to certain matters, and to take advice, relating to investment**

**10.**—(1) Subject to paragraph (2), for the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) This regulation does not apply to a scheme established under a trust.

(3) The manager of the scheme, and any person managing funds held for the purposes of the scheme, must, in investing such funds or in selecting investment options offered to members of the scheme, have regard to—

- (a) the need for diversification of investments, in so far as appropriate to the circumstances of the scheme; and
- (b) the suitability for the purposes of the scheme of any investment or investment option proposed.

(4) The manager of the scheme, and any person managing funds held for the purposes of the scheme, must, before making any investment or selecting any investment option for the purposes of the scheme, obtain and consider proper advice as to whether the investment ►or investment option◄ is satisfactory having regard to the matters mentioned in paragraph (3) and the principles contained in the statement under regulation 9.

►(4A)The manager of the scheme, and any person managing funds held for the purposes of the scheme, must, if retaining any investment or investment option for the purposes of the scheme—

- (a) determine at what intervals the circumstances, and in particular the nature of the investment or investment option, make it desirable to obtain and consider in relation to that investment or investment option such advice as is mentioned in paragraph (4); and
- (b) obtain and consider such advice accordingly.◄

(5) ►For the purposes of this regulation◄ “proper advice” means—

- (a) where the giving of advice constitutes a regulated activity of advising on investments (or would constitute such a regulated activity but for the identity of the person carrying on that activity), advice given by a person who may give that advice without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000;◄
- (b) in any other case, the advice of a person whom the manager or person managing funds held for the purposes of the scheme reasonably believes to be qualified by his ability in and practical experience of financial matters and to have the appropriate knowledge and experience of the management of the investments of pension schemes.

►(5A)Paragraph (5)(a) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- b) any relevant order under that section; and
- (c) Schedule 2 to that Act.◄

(6) ►Paragraphs (4) and (4A)(b) do not apply◄ to the extent that the manager or the person managing the scheme’s funds is a person who may ►himself◄ give proper advice.

(7) To the extent that paragraph (4) ►or (4A)(b)◄ is disapplied by virtue of paragraph

(a) Words in paras. (4), (5), (6) & (7) inserted & substituted & para. 4A inserted by reg. 6 of S.I. 2001/934 as from 5.4.01.

Reg. 10(5)(a) substituted and reg. 10(5A) inserted by reg. 597 of S.I. 2001/3649 as from 1.12.01.

See note (a) above.

**Regs. 10-10A**

(6), the manager or person managing the scheme's funds, being ► a person who may himself give proper advice—

Words in para. 7 substituted by reg. 6 of S.I. 2001/934 as from 5.4.01.

- (a) must—
  - (i) before making any investment or selecting any investment option for the purposes of the scheme, consider; and
  - (ii) if so retaining any investment or investment option, consider at such intervals as are determined by him in relation to that investment or investment option under paragraph (4A)(a),

whether the investment or investment option is satisfactory having regard to the matters mentioned in paragraph (3) and the principles contained in the statement under regulation 9; and

- (b) must record in writing the reasons why he considers that any—
  - (i) investment he makes or retains; or
  - (ii) investment option he selects or retains,

is satisfactory having regard to those matters and principles. ◀

►(8) No person shall be regarded as having complied with—

Words in para. 8 inserted and substituted by reg. 6 of S.I. 2001/934 as from 5.4.01.

- (a) paragraph (4) unless the advice to be obtained and considered by him under that paragraph is given or (by the giver of the advice) confirmed in writing;
- (b) paragraph (4A)(a) unless the determination to be made by him under that paragraph is recorded by him in writing;
- (c) paragraph (4A)(b) unless the advice to be obtained and considered by him under that paragraph is given or (by the giver of the advice) confirmed in writing. ◀

**►Requirement as regards the investment strategy for members nearing retirement**

Regs. 10A - 10E inserted by reg. 5 of S.I. 2005/577 as from 6.4.05.

**10A.**—(1) Subject to regulation 10B, for the purposes of section 1(1)(b) it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) Except in so far as paragraph (3) and regulation 10C provide otherwise, the trustees or manager of a scheme shall make the rights of a member under the scheme subject to lifestyling if the member has made no choice as regards any investment made under the scheme on his behalf.

(3) Paragraph (2) does not apply in relation to the rights of a person who became a member of the scheme before 6th April 2005 unless he requests that his rights should be made subject to lifestyling, in response to the notification provided for in regulation 10D(3).

(4) Where the amount representing the value of a member's rights is divided into different tranches, in respect of which different retirement dates are specified, paragraph (2) applies separately in relation to the member's rights regarding each tranche.

(5) In these Regulations, "lifestyling" means the process, applied from the relevant date and continuing until the member's retirement date, by which an investment strategy is adopted by the trustees or manager which aims progressively to reduce the potential for significant variation in the value of the member's rights caused by market conditions from time to time.

(6) In paragraph (5), "the relevant date" means a date chosen by the trustees or manager, which is at least five years before the member's retirement date, or which is—

- (a) in the case of a member who joins the scheme less than five years before his retirement date, as soon as is reasonably practicable after he becomes a member, and
- (b) in the case of a member whose retirement date is varied so as to become a date less than five years before the date of the variation, as soon as is reasonably practicable after the date of the variation.

**Exclusion of regulation 10A in relation to a scheme**

**10B**—(1) If, before 6th April 2005, the trustees or manager of a scheme resolved that no new member should be admitted to the scheme on or after that date—

- (a) regulation 10A shall not apply to the scheme, and
- (b) it shall be a condition of the scheme being a stakeholder pension scheme that no new member is admitted.

(2) Sub-paragraphs (a) and (b) of paragraph (1) shall cease to apply to a scheme if a resolution of the kind specified in that paragraph is revoked by a further resolution of the trustees or manager of the scheme on or after 6th April 2005.

**Transitional provisions relating to regulation 10A**

**10C.** If, before 6th April 200, the Occupational Pensions Regulator Authority received a letter from the trustees or manager of a scheme stating the intention—

- (a) to establish, by 6th April 2006, arrangements to make the rights of any person who—
  - (i) becomes a member of the scheme on or after 6th April 2005 and before 6th April 2006, and
  - (ii) has made no choice as regards any investment made under the scheme on his behalf,

subject to lifestyling, and

- (b) to establish, by 6th October 2007, arrangements to make the rights of any person who—
  - (i) became a member of the scheme before 6th April 2005, and
  - (ii) has requested that his rights should be made subject to lifestyling, in response to the notification provided for in regulation 10D(3),

subject to lifestyling,

regulation 10A(2) does not apply in relation to the rights of a person of the kind described in sub-paragraph (a) until 6th April 2006, or in relation to the rights of a person of the kind described in sub-paragraph (b) until 6th October 2007.

**Notification requirements connected with regulations 10A and 10B**

**10D.**—(1) For the purposes of section 1(1)(b) it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) The trustees or manager of the scheme shall notify the Pensions Regulator of any resolution of the kind specified in regulation 10B(1) by 4th July 2005, and of any resolution of the kind specified in regulation 10B(2) within three months after the date of the resolution.

(3) If regulation 10A applies to the scheme, the trustees or manager shall notify every member of the scheme—

- (a) who became a member before 6th April 2005;
- (b) who has made no choice as regards any investment made under the scheme on his behalf, and
- (c) whose rights are not already subject to lifestyling,

in accordance with paragraph (4).

(4) The notification provided for in paragraph (3) must—

- (a) inform the member—
  - (i) of the purpose of lifestyling, and the manner in which it is provided for under the scheme;

- (ii) of the potential advantages and disadvantages to the member of applying lifestyling to his rights, and
- (iii) that his rights will be made subject to lifestyling if he so requests, and
- (b) be given before 6th April 2007, or, in a case where regulation 10A applies to the scheme by virtue of a resolution under regulation 10B(2), within two years of the date of that resolution.

(5) If, by virtue of a resolution of the kind specified in regulation 10B(1), regulation 10A does not apply to the scheme, the trustees or manager shall notify every member of the scheme who has made no choice as regards any investment made under the scheme on his behalf in accordance with paragraph (6).

(6) The notification provided for in paragraph (5) must—

- (a) inform the member—
  - (i) of the purpose of lifestyling, and the fact that it is not provided for under the scheme, and
  - (ii) that, if he so requests, his rights under the scheme can be transferred to another stakeholder pension scheme of his choice under which lifestyling is provided for, and
- (b) be given before 6th April 2007.

(7) At least four months, but no more than two years, before applying lifestyling to the rights of a member whose rights are subject to lifestyling (or, where this is not reasonably practicable, as soon before applying lifestyling as is reasonably practicable), the trustees or manager shall notify the member of the fact that his rights are subject to lifestyling and of the date from which lifestyling will be applied.

**Changes notified by members**

**10E**—(1) Where—

- (a) the rights of a member of a scheme have been made subject to lifestyling;
- (b) the application of lifestyling to those rights has not begun, and
- (c) the member either—
  - (i) makes a choice as regards any investment made under the scheme on his behalf, or
  - (ii) notifies the trustees or manager of the scheme that he does not wish his rights to be subject to lifestyling,

the rights of the member shall cease to be subject to lifestyling.

(2) Where—

- (a) the application of lifestyling to the rights of a member of a scheme has begun, and
- (b) the member notifies the trustees or manager of the scheme that he wishes to specify a different retirement date,

the trustees or manager may opt to continue the application of lifestyling as if the member’s retirement date were unchanged.◀

**Requirement for manager of schemes not established under trust to appoint a reporting accountant**

**11.**—(1) ▶For◀ the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.



▶(3) There shall be appointed as reporting accountant for the scheme (“the reporting accountant”), by the trustees or manager of the scheme, a person who is eligible under paragraph (4) for such appointment.◀

Words substituted in reg. 11(1), reg. 11(2) deleted & reg. 11(3) substituted by reg. 7 of S.I. 2001/934 as from 5.4.01.

(a) 1989 c. 40.

**Reg. 11**

Reg. 11(4) substituted by reg. 3(2) of S.I. 2002/2098 as from 9.9.02.

►(4) A person is eligible for appointment as the reporting accountant only if he is eligible (but subject to paragraph (10)) under section 25 of the Companies Act 1989(a) for appointment as a company auditor.◄

(5) The reporting accountant shall be appointed in writing and the notice of appointment shall specify—

- (a) the date on which the appointment is due to take effect;
- (b) to whom the reporting accountant is to report; and
- (c) from whom the reporting accountant is to take instructions.

(a) Words in regs. 11(6) (7) & (8) substituted by reg. 7 of S.I. 2001/934 as from 5.4.01.

(6) The ►trustees or manager◄ shall procure from the reporting accountant ►by the end of one month beginning with the date he received◄ his notice of appointment a statement—

(b) Words in reg. 11(6)& (7) substituted & omitted by reg. 3 of S.I. 2002/2098 as from 9.9.02.

- (a) acknowledging in writing his receipt of his notice of appointment; and
- (b) confirming in writing that he will notify the ►trustees or manager◄ of any conflict of interest to which he is subject in relation to the scheme immediately he becomes aware of its existence.

See note (a) above.

See note (b) above.

See note (a) above.

(7) It shall be a condition of the appointment of the reporting accountant that he agrees, in the event of his resignation ►◄, to serve on the ►trustees or manager◄ a written notice of resignation containing—

- (a) a statement specifying any circumstances connected with the resignation which in his opinion significantly affect the interests of the members or prospective members of, or of beneficiaries under, the scheme; or
- (b) a declaration that he knows of no such circumstances,

but for the purposes of this paragraph, such circumstances shall not include the mere fact of his being, or having become, ineligible as mentioned in paragraph (7A).◄

Reg. 11(7A) inserted by reg. 7(8) of S.I. 2001/934 as from 5.4.01. Words in reg. 11(7A) & (10) substituted, paras. (7A)(c), (8) & (9) substituted & words in para. (7A)(e) omitted by reg. 3 of S.I. 2002/2098 as from 9.9.02.

►(7A) Where the reporting accountant is or becomes ineligible, by virtue of ►not or no longer being a person defined in paragraph (11) who satisfies the condition◄ in paragraph (4), for his appointment as such—

- (a) he shall not act as the reporting accountant (except if required to do so under paragraph (6), and except as required by his agreement under paragraph (7) and as required by sub-paragraph (c) and (d));
- (b) anything done for the purposes of these Regulations by him acting as such while ineligible in contravention of sub-paragraph (a) shall by the trustees or manager be taken for those purposes not to have been done;
- (c) he shall resign (with immediate effect) by notice in writing immediately he becomes aware that he is ineligible;◄
- (d) he shall state in that notice—
  - (i) that he is resigning by reason of ineligibility; and
  - (ii) the ground on which he is or has become so ineligible;
- (e) ►◄ if he is still in place when the trustees or manager ►◄ become aware, ►◄, that he is or has become so ineligible, the trustees or manager shall remove him immediately.◄

►(8) Except in cases falling within paragraph (9), where the reporting accountant is removed by the trustees or manager or resigns or dies, the trustees or manager shall appoint, in accordance with this regulation, another reporting accountant—

- (a) as soon as is required in order to ensure that the provisions of regulation 12(2)(b) and (8) are complied with; and
- (b) in any event, by the end of 3 months beginning with the date of that removal, resignation or death.

(9) Where under paragraph (7A) the reporting accountant resigns with immediate effect or is removed, the trustees or manager shall appoint, in accordance with this regulation, another reporting accountant—

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(a) 1989 c. 40.



- (a) as soon as is required in order to ensure that the provisions of regulation 12(2)(b) and (8) are complied with; and
- (b) in any event, by the end of one month beginning with the date of that resignation or removal.◀

(10) For the purposes of ▶<sup>1</sup>paragraph (4)◀, a person is not eligible under section 25 of the 1989 Act for appointment as a company auditor if section 34 of that Act applies to him (individuals retaining only authorisation under section 13(1) of the Companies Act 1967(a).

<sup>1</sup>Words in reg. 11(10) & reg. 12 substituted by reg. 3(7) & 4 of S.I. 2002/2098 as from 9.9.02.

(11) In this regulation references to a person are references to an individual, a body corporate or a partnership.

#### ▶<sup>1</sup>Requirement for declaration by trustees or manager

**12.**—(1) For the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) Subject to paragraph (11), the trustees or manager of the scheme shall, no later than the end of 6 months beginning with each reporting date—

- (a) make a declaration in writing signed by the trustees or manager containing the statements set out in paragraph (5) in relation to the reporting period or, in so far as they are unable to make those statements, containing a statement explaining why they are unable to do so; and
- (b) obtain from the reporting accountant appointed by virtue of regulation 11 the statement specified in paragraph (7) or, in so far as the reporting accountant is unable to make that statement, a statement from the reporting accountant explaining why he is unable to do so.

(3) Subject to paragraph (10), in this regulation “reporting date” means—

- (a) in the case of the first reporting date, a date chosen by the trustees or manager that is no later than the last day of the period of 12 months beginning with the date on which the scheme is registered under section 2 of the Act; and
- (b) in the case of each subsequent reporting date, a date chosen by the trustees or manager that is no later than the last day of the period of 12 months beginning with the date immediately following the previous reporting date.

(4) Subject to paragraph (10), in this regulation “reporting period” means—

- (a) in the case of the first reporting period, the period beginning on the date of registration of the scheme under section 2 of the Act and ending on and including the first reporting date;
- (b) in the case of subsequent reporting periods, the period beginning on the date immediately following the previous reporting date and ending on and including the reporting date.

(5) The statements specified in paragraph (2)(a) shall be—

- (a) a statement that in the opinion of the trustees or manager there are systems and controls in place which provide reasonable assurance that—
  - (i) regulations 13 ▶<sup>2</sup>, 14 and 14B◀ have been complied with in relation to the scheme;
  - (ii) transactions for the purposes of the scheme in securities, property or other assets have occurred at a fair market value;

<sup>2</sup>Words substituted in reg. 12 (5)(a)(i) by reg. 7(3) of S.I. 2005/577 as from 6.4.05.

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(a) Section 13(1) was repealed by section 29 of, and Schedule 1 to, the Companies Consolidation (Consequential Provisions) Act 1985 (c. 9), was replaced by section 389(2) of the Companies Act 1985 (c. 6) (repealed by section 212 of, and Schedule 24 to, the Companies Act 1989). *See*, in addition to section 34 of the Companies Act 31 of that Act, and in particular section 31(2) which covers cases previously covered by section 389(2) of the Companies Act 1985.)

## Regs. 12-13

<sup>1</sup>Words inserted in reg. 12(5)(a)(iv) & (d)(ii) by reg. 4(5) of S.I. 2010/2659 as from 1.12.10.

<sup>2</sup>Words substituted in reg. 12(5)(d)(i) by reg. 7(3) of S.I. 2005/577 as from 6.4.05.

- (iii) the value of members' rights has been determined in accordance with the provisions in the instruments establishing the scheme; and
- (iv) adequate records have been maintained for the purposes of providing to members the statement required by regulation ►<sup>1</sup>18A(1)◄;
- (b) a statement describing the process that the trustees or manager have or has undertaken in order to arrive at the opinion expressed in the statement described in paragraph (5)(a);
- (c) a statement that in the opinion of the trustees or manager there are systems and controls in place which provide reasonable assurance that the scheme has complied with the conditions in section 1(1) of the Act, apart from those conditions that are covered by the statement in paragraph (5)(a); and
- (d) a statement which explains that—
  - (i) regulations 13 ►<sup>2</sup>, 14 and 14B◄ impose limits on the amount of charges and deductions which may be made by a stakeholder pension scheme and on the manner in which charges may be made by such a scheme; and
  - (ii) regulation ►<sup>1</sup>18A(1)◄ requires a stakeholder pension scheme to provide an annual benefit statement to each member.

(6) The trustees or manager shall provide the reporting accountant with documentation to demonstrate that the process described in the statement in paragraph (5)(b) has taken place.

(7) The statement specified in paragraph (2)(b) shall be a statement that—

- (a) the reporting accountant has been provided with documentation as required by paragraph (6); and
- (b) nothing has come to the attention of the reporting accountant that is inconsistent with the statement made in paragraph (5)(b).

(8) The trustees or manager shall make available to members and beneficiaries of the scheme on request the declaration made by the trustees or manager and the statement obtained from the reporting accountant in accordance with paragraph (2).

(9) If the statement to be obtained by the trustees or manager under paragraph (2)(b) is obtained from the reporting accountant acting as such while ineligible in contravention of regulation 11(7A)(a)—

- (a) the trustees or manager shall not be regarded as having complied with paragraph (2)(b); and
- (b) for the purposes of paragraph (8), the statement from the reporting accountant shall not be regarded as obtained in accordance with paragraph (2)(b).

(10) Where a scheme is registered under section 2 of the Act on or before 6th April 2001—

- (a) the first reporting date shall be 5th April 2002; and
- (b) the first reporting period shall be the period beginning on and including 6th April 2001 and ending on and including 5th April 2002.

(11) Where the reporting date is on or before 30th September 2002 the trustees or manager of the scheme shall make the declaration specified in paragraph (2)(a) and obtain the statement specified in paragraph (2)(b) from the reporting accountant—

- (a) on or before 31st December 2002; or
- (b) by the end of 6 months beginning with the reporting date,

whichever is later.◄

### Expenses, commission etc. - principles

<sup>3</sup>Words inserted in reg. 13(1) by reg. 6(2) of S.I. 2005/577 as from 6.4.05.

**13.—**(1) Except to the extent permitted by regulation 14 ►<sup>3</sup>or 14B◄

- (a) no payment made to a stakeholder pension scheme by or on behalf of any member;

- (b) no income or capital gain arising from the investment of such a payment;
- (c) no amount credited to a member's account in respect of a credit within the meaning of section 29 (pension sharing: creation of pension debits and credits); and
- (d) no amount representing the value of any rights of a member under the scheme,

shall be used in any way which does not result in the provision of benefits for or in respect of members.

(2) Paragraph (1) does not apply—

- (a) to the extent that section 31 (pension sharing: pension debits), or any enactment in force in Northern Ireland corresponding to that section, applies to reduce the benefits or future benefits to which a member may be entitled under the scheme; or
- (b) to prevent the trustees or manager of a scheme from complying with ►<sup>1</sup>an order of the court◀
  - (i) under section 23 of the Matrimonial Causes Act 1973(a) (financial provision in connection with divorce proceedings, etc.) by virtue of section 25B or 25C of that Act (powers to include provision about pensions),
  - (ii) under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978(b) by virtue of Article 27B or 27C of that Order (Northern Ireland powers corresponding to section 25B and 25C of the Matrimonial Causes Act 1973), or
  - (iii) under section 12A(2) or (3) of the Family Law (Scotland) Act 1985(c) (powers in relation to pensions lump sums when making a capital sum order)—

<sup>1</sup>Words substituted in reg. 13(2)(b) and (3) by reg. 6 of S.I. 2005/577 as from 6.4.05.

►<sup>2</sup>(2A) Nothing in paragraph (1) shall be taken to prevent that which is permitted by or under any of the provisions mentioned in paragraph (4).◀

<sup>2</sup>Regs. 13(2A) & 13(4) inserted by reg. 9 of S.I. 2001/934 as from 5.4.01.

(3) In this regulation and in ►<sup>1</sup>regulations 14 and 14B◀ below “member” includes “beneficiary”.

►<sup>2</sup>(4) The provisions referred to in paragraph (2A) are—

- (a) ►<sup>3</sup>◀
- (b) section 159 of the 1993 Act(d) (inalienability of guaranteed minimum pension and protected rights payments);
- (c) section 91 to 94 of the 1995 Act and regulations under those sections(e) (inalienability and forfeiture of occupational pensions); and
- (d) in the case of a pension scheme established under a trust which—
  - (i) is not an occupational pension scheme; but
  - (ii) is or has been registered under section 2;
 sections 91, 92 and 94 of the 1995 Act and the Occupational Pension Schemes

<sup>3</sup>Reg. 13(4)(a) omitted by art. 20(3) of S.I. 2011/1246 as from 6.4.12.

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(a) 1973 c. 18; section 23(6) was inserted by section 16 of the Administration of Justice Act 1982 (c. 53) and sections 25B and 25C were inserted with savings by the Pensions Act 1995.

(b) S.I. 1978/1045 (N.I. 15). Articles 27B and 27C were inserted by Article 162(1) of the Pensions (Northern Ireland) Order 1995 and are amended by paragraphs 1 and 2 respectively of Schedule 4 to the Welfare Reform and Pensions (Northern Ireland) Order 1995.

(c) 1985 c. 37; section 12A was inserted by section 167 of the Pensions Act 1995 and is amended by paragraph 6 of Schedule 12 to the Act.

(d) Section 159 was amended by section 122 of, and paragraph 41 of Schedule 3 to, the Pensions Act 1995 (c. 26) which inserted subsections (4A) and (4B).

(e) See the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997, S.I. 1997/785, amended by S.I. 1999/1849. Sections 91 to 93 were amended by section 84(1) of, and paragraphs 57 to 59 of Schedule 12 to, the Welfare Reform and Pensions Act 1999 (c. 30). Section 94 was amended by section 18 of, and paragraph 17 of Schedule 2 to, that Act.

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(Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997(a) (inalienability and forfeiture of occupational pensions) as those sections and Regulations have effect by virtue of section 6(3) of, and Schedule 1 to, the Act and of regulation 32.◀

▶<sup>1</sup>Charges etc. - permitted reductions in members' rights

<sup>1</sup>Reg. 14 substituted and regs. 14A-14C inserted by reg. 7 of S.I. 2005/577 as from 6.4.05.

<sup>2</sup>Words substituted in reg. 14(1) by reg. 11(2)(a) of S.I. 2007/814 as from 6.4.07.

**14.—**(1) The value of a member's rights under the scheme may be reduced in the circumstances, and to the extent, set out in ▶<sup>2</sup>paragraphs (2) to (5A)◀ of this regulation.

(2) To the extent that a member's rights are represented by a fund allocated to him to the exclusion of other members, the value of those rights may be reduced by the making of deductions from that fund which when added to the amount of any indirect charges attributable to the member's rights, are no greater than, at the choice of the trustees or manager—

- (a) the relevant percentage of its value for each day on which it is held for the purposes of the schemes, or
- (b) the proportion attributable to the fund of the relevant percentage of the value of all members' funds held for the purposes of the scheme for each day on which the fund is so held.

(3) To the extent that a member's rights are represented by a share of funds held for the purposes of the scheme, the amount of that share not being determined by reference to a discretion exercisable by any person, the value of those rights may be reduced by the making of deductions from that share which, when added to the amount of any indirect charges attributable to the member's share, are no greater than, at the choice of the trustees or manager—

- (a) the relevant percentage of its value for each day on which it is held for the purposes of the scheme, or
- (b) the proportion attributable to the member's share of the relevant percentage of the value of the funds for each day on which the share is held.

(4) To the extent that a member's rights are represented by rights in a with-profits fund, the value of those rights may be reduced by the making of deductions from the with-profits fund which added to the amount of any indirect charges attributable to the member's rights, are no greater than, at the choice of the trustees or manager—

- (a) the relevant percentage of the value of the member's rights in the fund for each day on which it is held for the purposes of the scheme, or
- (b) the proportion attributable to the member's rights of the relevant percentage of the value of such part of the fund as is allocated to the rights of members for each day on which the member has rights in the fund.

(5) The value of a member's rights under the scheme may be reduced—

- (a) where administrative expenses are incurred by the trustees or manager in—
  - (i) the purchase or provision of an annuity for the member in accordance with the scheme, or
  - (ii) the making of payments of income (otherwise than by way of an annuity) to a member under arrangements made in accordance with the scheme,

by the amount of those expenses;

- (b) by such amount, and in such manner, as is permitted by regulations under section 24 or 41 (charges in respect of pension sharing costs);
- (c) where an order of the court provides for the recovery by the trustees or manager of costs incurred in complying with the order, by the amount of those costs;
- (d) where any charges are incurred by the trustees or manager, directly or indirectly, in connection with the sale or purchase of investments held for the purposes of the scheme, by the amount of such of those charges as—
  - (i) are attributable to the member's rights, and

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(a) S.I. 1997/785, amended by S.I. 1999/1849.

- (ii) are not the subject of the election by the trustees or manager under regulation 14B(1)(b);
- (e) where any charges or expenses are incurred by the trustees or manager directly or indirectly in maintaining or repairing any land or buildings in which the fund is invested, or in connection with the collection of rent, service charge or other sums due under the terms of a lease from occupiers of any such land or buildings, by the amount of such of those charges or expenses as—
  - (i) are attributable to the member's rights, and
  - (ii) are not the subject of an election by the trustees or manager under regulation 14B(1)(b);
- (f) by the amount of any dilution levy charged, or, in the case of rights represented by rights in a with-profits fund, by the amount of any market value adjustment occurring in relation to the fund; ►<sup>1</sup>and◄
- (g) where the member is the transferor for the purposes of section 29 (pension sharing: creation of pension debits and credits), by the amount of any payment made to discharge the liability of the trustees or manager in respect of a credit within the meaning of that section; ►<sup>1</sup>◄
- (h) ►<sup>1</sup>◄

<sup>1</sup>Words inserted in reg. 14(5)(f), deleted in para. (5)(g) & reg. 14(5)(h) revoked by reg. 8(4) & (2)(b) of S.I. 2013/459 as from 6.4.13.

►<sup>2</sup>(5A) The value of a member's rights under the scheme may be reduced by the amount of any payment made to discharge the liability of the trustees or managers in respect of any tax liability under the Finance Act 2004 in relation to that member.◄

<sup>2</sup>Reg. 14(5A) inserted by reg. 11(2)(b) of S.I. 2007/814 as from 6.4.07.

(6) In paragraphs (2) to (4), "indirect charges" means management charges deducted from a fund in which a fund held for the purposes of the scheme is invested, directly or indirectly.

(7) For the purposes of paragraph (2) to (4), "the relevant percentage" means—

- (a) in the case of an established member, 1/365 per cent.;
- (b) in the case of a new member—
  - (i) during the period of 10 years beginning with the day on which the first payment is made to the scheme by or on behalf of the member, or, in a case where an amount is credited to the member's account in respect of a credit within the meaning of section 29 before any payment is made, the day on which that amount is credited, 3/730 per cent.,
  - (ii) otherwise 1/365 per cent.

(8) In this regulation and regulation 14A—

"an established member" means a person who first acquired rights under the scheme before 6th April 2005 and has maintained rights under it since that date, and

"a new member" means a person who first acquired rights under the scheme on or after 6th April 2005, or who reacquired such rights after that date having previously transferred all of his accrued rights under the scheme to another pension scheme or arrangement.

(9) Where the value of any member's rights is reduced by reference to an amount of charges or expenses of a kind referred to in paragraph (5)(d) or (e), then, for the purposes of calculating any reduction under paragraph (2), (3) or (4) above, the funds held by the scheme are to be calculated after the deduction of any such amount.

#### Valuation for the purposes of regulation 14

**14A.**—(1) For the purposes of paragraphs (2)(a), (3)(a) and (4)(a) of regulation 14, the rights of members must be valued daily, weekly or monthly, but the frequency with which the rights of established members are valued may be different from that with which the rights of new members are valued.

(2) For the purposes of paragraph (2)(b), (3)(b) and (4)(b) of regulation 14, the funds of the scheme must be valued daily.

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(3) Both—

- (a) the frequency, or different frequencies, with which rights are to be valued for the purposes of paragraphs (2)(a), (3)(a) and (4)(a) of regulation 14, and
- (b) where valuation is to take place weekly or monthly, the day of the week or, as the case may be, the date in the month on which it is to take place,

must be specified in writing by the trustees or manager of the scheme; and the specification may not be amended during the period of 12 months after the date on which it is made.

(4) When calculating the value of a member's rights for the purposes of paragraphs (2)(a), (3)(a) or (4)(a) of regulation 14, where it has been specified under paragraph (3) above that such rights are to be valued weekly or monthly—

- (a) where the rights are to be valued weekly, they are to be valued on such day of the week ("the specified day") as has been so specified by the trustees or manager (except that, where that day is not a working day, the rights are to be valued on the next working day), and the value of the rights on each subsequent day prior to the next specified day is to be taken to be the value of the rights on the previous specified day, and
- (b) where the rights are to be valued monthly, they are to be valued on such date in each month ("the specified date") as has been so specified by the trustees or manager (except that, where that date is not a working day, the rights are to be valued on the next working day), and the value of the rights on each subsequent day prior to the next specified date is to be taken to be the value of the rights on the previous specified date.

#### **Charges etc. - permitted reductions in funds**

**14B.**—(1) The value of a fund held for the purposes of the scheme may be reduced where any charges or expenses are incurred in the circumstances specified in regulation 14(5)(d) or (e) and are either—

- (a) not attributable to the rights of a member under the scheme, or
- (b) attributable to such rights but the subject of an election by the trustees or manager to recover charges or expenses by way of a reduction of the value of the fund rather than by way of a reduction of the value of the member's rights,

by the amount of those charges or expenses.

(2) Where the value of a fund is reduced by reference to an amount referred to in paragraph (1), then, for the purposes of calculating any reduction in the member's rights under paragraph (2), (3) or (4) of regulation 14, the value of those rights is to be calculated after the deduction of that amount.

#### **Rounding of fractional amounts**

**14C.** For the purposes of any calculation under regulation 14 or 14B, values and amounts may be determined, at the option of the trustees or manager, by rounding down any fraction of a penny less than one half and rounding up any other such fraction. ◀

#### **Requirement for trustees or manager to satisfy certain conditions in relation to with-profit funds**

**15.**—(1) Where all or any of a stakeholder pension scheme's assets are invested in a with-profits fund it shall, for the purposes of section 1(1)(b), be a condition of the scheme being a stakeholder pension scheme that the requirements of this regulation are complied with.

(2) A stakeholder pension scheme shall not invest any assets in a with-profits fund that includes non-stakeholder pension scheme assets.

(3) Prior to entering into any agreement whereby any assets of the scheme will be invested in a with-profits fund, the trustees or manager of that scheme shall take such steps as are necessary to ensure that they obtain a written contract from the ►<sup>1</sup>insurer◄ maintaining the with-profits fund which provides that the ►<sup>1</sup>insurer◄ will, in respect of any period that the stakeholder pension scheme has assets invested in the with-profits fund—

<sup>1</sup>Words substituted in reg. 15(3) by reg. 595(4) of S.I. 2001/3649 as from 1.12.01.

- (a) provide such information to the trustees or manager of the stakeholder pension scheme as is necessary to allow the trustees or manager to operate in compliance with the requirements of regulations 13 or 14;
- (b) ensure that members of the stakeholder pension scheme will not be treated less favourably than any other members of stakeholder pension schemes who may have assets invested in the with-profits fund;
- (c) provide to the trustees or manager of the stakeholder pension scheme any certificates from the auditor and actuary to the ►<sup>2</sup>insurer◄ that are necessary to allow the ►<sup>3</sup>trustees or manager to make the declaration mentioned in regulation 12(2)(a);◄
- (d) ensure that no investments are made in the fund other than the investment of stakeholder pension scheme assets; and
- (e) take such steps as are necessary to comply with paragraph (4).

<sup>2</sup>Words substituted and deleted in reg. 15(3)(c) and (4) by reg. 8 of S.I. 2005/577 as from 6.4.05.

<sup>3</sup>Words in reg. 15(3) (c) & (4)(b) substituted by reg. 5 of S.I. 2002/2098 as from 9.9.02.

(4) The ►<sup>4</sup>insurer◄ must, at least annually, provide the trustees or manager of the stakeholder pension scheme with a certificate from ►<sup>5</sup>◄ the ►<sup>2</sup>◄ actuary to the ►<sup>4</sup>insurer◄ certifying that the ►<sup>4</sup>insurer◄ has ►<sup>5</sup>systems which and controls which are of a design such that, and used such that.◄

<sup>4</sup>Words substituted in reg. 15(4) and (5) by reg. 40(3) of S.I. 2002/1555 as from 3.7.02.

- (a) proper accounting records are maintained in respect of all income and expenditure relevant to regulations 13 ►<sup>6</sup>, 14 and 14B◄ and the terms of the contract referred to in paragraph (3);
- (b) the records referred to in sub-paragraph (a) are provided ►<sup>3</sup>to the auditor of the scheme if requested by the auditor, trustees or manager;◄
- (c) no expenditure is charged to the with-profits fund where that expenditure would be contrary to the requirements of regulation 13 or 14; and
- (d) the terms of the contract referred to in paragraph (3) have been complied with.

<sup>5</sup>Words deleted and substituted in reg. 15(4) by reg. 11 of S.I. 2001/934 as from 5.4.01.

<sup>6</sup>Words substituted in reg. 15(4)(a) & 16(a)(i) by reg. 7(3) of S.I. 2005/577 as from 6.4.05.

(5) Where the ►<sup>4</sup>insurer◄ does not comply with the agreement referred to in paragraph (3), the trustees or managers must take such steps as are necessary to ensure that the ►<sup>4</sup>insurer◄ does so comply.

(6) ►<sup>7</sup>In this regulation the “actuary to the insurer” means a person appointed to perform, in relation to the insurer, either or both of the functions specified in paragraph 4.3.1 of the Supervision Manual which is part of the FSA Handbook”.◄

<sup>7</sup>Reg. 15(6) substituted by reg. 8 of S.I. 2005/577 as from 6.4.05.

**Requirements as regards the provision of other services**

**16.** For the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that—

- (a) the scheme does not provide any service other than the management of the scheme and its funds unless—
  - (i) any such service is provided under a contract separate from any contract of membership of the scheme, is provided free of charge or is consistent with regulations 13 ►<sup>6</sup>, 14 and 14B◄
  - (ii) any contract for such service is in writing and sets out the amount of any charge for the service and the terms on which it is to be paid; and
- (b) it is not a condition of membership of the scheme that any person enter into any contract, whether with the trustees or manager of the scheme or any other person, other than the contract of membership of the scheme.

## Regs. 17-18

## Restrictions on contributions

<sup>1</sup>Words substituted in reg. 17(1) & regs. 17(5) to (7) inserted by reg. 12 of S.I. 2001/934 as from 5.4.01.

**17.—(1)** Subject to paragraph, ►<sup>1</sup>the scheme instruments◄ may permit the trustees or manager to refuse to accept a payment to the scheme of less than £20.

(2) Paragraph (1) does not permit the trustees or manager to refuse to accept any payment made to the scheme by the Inland Revenue by way of tax relief, minimum contributions, minimum payments or any payment under section 42A(3) of the 1993 Act (reduced rate of Class 1 contributions, and rebates).

(3) For the purposes of paragraph (1), amounts in respect of income tax deducted and retained by a member as permitted by ►<sup>2</sup>section 192 of the Finance Act 2004 (relief at source)◄ shall not be treated as payments to the scheme.

(4) The trustees or manager of a stakeholder pension scheme may refuse to accept any contribution if its acceptance would contravene the terms of the scheme's ►<sup>2</sup>tax-registration◄.

►<sup>2</sup>(4A) The trustees or manager of a stakeholder pension scheme may refuse to accept any contribution by, or on behalf of any member of the scheme who—

- (a) has not given the declaration specified in regulation 5(2) of the Registered Pension Schemes (Relief at Source) Regulations 2005(a) (declaration of entitlement to tax relief in respect of net contributions); or
- (b) is not a relevant UK individual for the purposes of section 189 of the Finance Act 2004 (relevant UK individual) for the tax year in respect of which the contribution is made.◄

►<sup>1</sup>(5) Subject to regulation 3(5B), the scheme may permit restrictions on the means of payment of contributions of the scheme.

(6) The scheme instruments of an occupational pension scheme may permit the trustees or manager to refuse to accept, in respect of any member of the scheme who is not an active member of the scheme, any contribution by or on behalf of or in respect of that member.

(7) For the purposes of paragraph (6), “active member” has the meaning given by section 124 of the 1995 Act(b).◄

## Disclosure of information to members

<sup>3</sup>Reg. 18 substituted by reg. 4(6) of S.I. 2010/2659 as from 1.12.10.

►<sup>3</sup>**18.—(1)** For the purposes of section 1(1)(b), it is a condition of a scheme being a stakeholder pension scheme that the trustees or manager of the scheme comply with the requirements set out in regulations 18A and 18B in addition to such requirements of regulations under section 113 of the 1993 Act (disclosure of information about schemes to members etc.) as are applicable to the scheme.

(2) For the purposes of these Regulations “statement year” means, in relation to a person, the period of 12 months beginning—

- (a) in the case of a person who becomes a member after 6th April 2001, on a date chosen, in respect of that person, by the trustees or manager which falls—
  - (i) on or before the day on which that person becomes a member; but
  - (ii) no earlier than 6th April 2001; and
- (b) in any other case, on 6th April 2001,

and, subject to paragraph (4), each subsequent period ending on and including the anniversary of the last day of the first statement year.

(3) The date to be chosen, in respect of a person, under paragraph (2)(a) must be chosen on or before the day on which that person becomes a member.

(a) S.I. 2005/3448.

(b) Section 124 was amended by section 18 and 84 of, and paragraph 18 of Schedule 2 and paragraph 61 of Schedule 12 to, the Welfare Reform and Pensions Act 1999 (c. 30), and by section 56 of, and paragraph 8(3) of Schedule 5 to, the Child Support, Pensions and Social Security Act 2000 (c. 19).



(4) For the purposes of paragraph (2), the trustees or manager may, in respect of any person, choose a new date for the ending of the statement year relating to that person if—

- (a) the date chosen—
  - (i) is specified in writing; and
  - (ii) falls before the end of the statement year relating to that person during which the trustees or manager specify the new date; and
- (b) no other date has been chosen in respect of that person by the trustees or manager under this paragraph during the previous period of 12 months.

(5) If a new date is chosen under paragraph (4), “statement year” means, in relation to the person in respect of whom the new date is chosen, the period of 12 months ending on and including that new date (except that, in relation to the first statement year relating to that person, “statement year” means, in relation to that person, the period beginning with the day which is, by virtue of paragraph (2)(b) or of a choice under paragraph (2)(a), the first day of that first statement year and ending on and including that new date) and each subsequent period ending on and including the anniversary of that new date.

(6) For the purposes of paragraphs (2)(a) and (4), different dates may be chosen in respect of different persons.

(7) For the purposes of this regulation, regulations 18A and 18B and Schedule 3, “member” does not include any member—

- (a) whose present postal address and electronic address is not known to the trustees or manager; ►<sup>1</sup>and◄
- (b) in respect of whom the trustees or manager have sent correspondence to their last known—
  - (i) postal address and that correspondence has been returned, or
  - (ii) electronic address and the trustees or manager are satisfied that that correspondence has not been delivered; ►<sup>1</sup>◄
- (c) ►<sup>1</sup>◄

<sup>1</sup>Words in 18(7)(a), 18A(1) & reg. 18A(1A) inserted & word in 18(7)(b) & reg. 18(7)(c) omitted by para. 9(3) & (4)(a) & (b) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

(8) For the purposes of this regulation, regulations 18A and 18B and Schedule 3, “member” includes a dependant making income withdrawals from the scheme in accordance with paragraph 21 of Schedule 28 to the Finance Act 2004 (dependants’ income withdrawal).

**18A.**—(1) ►<sup>1</sup>Subject to paragraph (1A)◄ where a person is a member for all or part of a statement year relating to them, there must be provided to that person—

- (a) within three months of the end of that statement year; or
- (b) where that person ceases during that statement year to be a member, during the period beginning with the time at which that person so ceases and ending on and including the last day of the three-month period mentioned in sub-paragraph (a),

a statement which contains the information mentioned in paragraph 1 of Schedule 3 and either paragraph 2 or 3 of Schedule 3, so far as that information relates to that statement year or, in cases falling within sub-paragraph (b) of this paragraph, to the part of that statement year beginning with the first day of that statement year (whether or not that day is earlier than the day on which that person becomes a member) and ending with the time at which that person so ceases.

►<sup>1</sup>(1A) The information mentioned in paragraph (1) need not but may, nevertheless, be given in respect of a statement year where—

- (a) the statement year is the first to end on or after the date the person became a member of the scheme; and
- (b) the end of that statement year falls at a time when—
  - (i) no contributions have been credited to the scheme in respect of the person; or

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- (ii) the person has the right to opt out of the scheme under section 8 of the Pensions Act 2008 (jobholder's right to opt out).

## (1B) Where—

- (a) the information is not provided to the person by virtue of paragraph (1A); and  
 (b) contributions have been credited in respect of the member in respect of the statement year mentioned in paragraph (1A)(a),  
 it must be provided no later than the information that relates to the next following statement year. ◀

(2) Subject to paragraph (4), where a statement is provided under paragraph (1) it must also contain an illustration of the amount, calculated in accordance with regulation 18B, of the pension an entitlement to which would be likely to accrue to the member, or be capable of being secured by the member, at the member's retirement date in respect of rights that may arise under the scheme.

<sup>1</sup>Reg. 18A(2A) inserted by para. 9(4)(c) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

▶<sup>1</sup>(2A) For the purposes of paragraph (2), the calculation of the amount of the pension mentioned in paragraph (2) may take account of the lump sum. ◀

## (3) Where information is provided under paragraph (2)—

- (a) that information must be accompanied by the additional information specified in paragraph 5 of Schedule 3; and  
 (b) the further information specified in paragraph 6 of Schedule 3 must be provided by one of the methods in paragraph (6) of this regulation.

## (4) The requirement to furnish information under paragraph (2) does not apply—

- (a) in respect of a person who is in receipt of pension benefits under the scheme;  
 (b) where the last day of the statement year referred to in paragraph 1(b)(i) of Schedule 3 is not more than two years before the date which is the member's retirement date for the purpose of paragraph (2) of this regulation;  
 (c) where, in relation to the member—  
 (i) the value, determined by reference to the relevant guidance, of the member's accrued rights to money purchase benefits under the scheme was less than £5,000 on the illustration date in respect of which such information was last furnished to the member;  
 (ii) no contributions, including transfers of pension rights or pension credits, have been made to the scheme by the member or on the member's behalf in respect of money purchase benefits since that date; and  
 (iii) the trustees or manager previously gave notice to the member that no further such information would be furnished to the member unless further contributions to the scheme in respect of money purchase benefits had first been made by the member or on the member's behalf; ▶<sup>2</sup>or◀

## (d) where, in relation to the member—

- (i) the value, determined by reference to the relevant guidance, of the member's accrued rights to money purchase benefits under the scheme is less than £5,000 on the first illustration date falling after 5th April 2003;  
 (ii) no contributions, including transfers of pension rights or pension credits, have been made to the scheme by the member or on the member's behalf after 5th April 2003; and  
 (iii) no further contributions are, in the opinion of the trustees or manager, likely to be made to the scheme by the member or on the member's behalf after that illustration date;

(e) ▶<sup>2</sup>◀

(5) Where paragraph (4) applies but the trustees or manager nevertheless choose to furnish the information described in paragraph (2) and the amount comprising that information is calculated in accordance with regulation 18B, then—

<sup>2</sup>Words inserted in reg. 18A(4)(c) & word in 18A(4)(d) & 18A(4)(e) omitted by para. 9(4)(d) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

- (a) that information must be accompanied by the additional information specified in paragraph 5 of Schedule 3; and
- (b) the further information specified in paragraph 6 of Schedule 3 must be provided by one of the methods in paragraph (6) of this regulation,

as if that additional and further information had been provided under paragraph (2).

(6) The methods referred to in paragraphs (3)(b) and (5)(b) are for the further information to—

- (a) accompany the information described in paragraph 5 of Schedule 3; or
- (b) be otherwise furnished by the trustees or manager.

(7) Where—

- (a) a statement has been issued to a member under paragraph (1);
- (b) in that statement, the trustees or manager provided the information listed in paragraph 3, rather than paragraph 2, of Schedule 3 to that member; and
- (c) that member requests any information listed in paragraph 2 of Schedule 3 from the scheme,

the trustees or manager must provide to the member a statement in accordance with the conditions referred to in paragraph (8) of this regulation containing the information listed in paragraph 2 of Schedule 3 which the member has requested.

(8) The conditions referred to in this paragraph as mentioned in paragraph (7) are—

- (a) the statement must be provided—
  - (i) as soon as practicable, and
  - (ii) within two months of the date on which the request referred to in paragraph (7)(c) is received; and
- (b) the information must relate to the same statement year, or part of a statement year, to which the statement issued under paragraph (1) relates.

(9) Each member must be provided with a statement setting out the information in paragraph 7 of Schedule 3.

(10) The statement mentioned in paragraph (9) must be provided within one month of the change mentioned in paragraph 7 of Schedule 3.

**18B.—**(1) The amount referred to in regulation 18A(2) must be determined by reference to—

- (a) the relevant guidance; and
- (b) the assumptions about contributions specified in paragraph (2) <sup>1</sup>◀

having regard to the value of the member’s accrued rights to money purchase benefits under the scheme on the illustration date.

<sup>1</sup>Words in reg. 18B(1)(b) & 18B(3) & (4) omitted by para. 9(5) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

(2) The assumptions about contributions referred to in paragraph (1)(b) are—

- (a) where the calculation relates to the rights of a non-contributing member, that no contributions will be made to the scheme by the member or on the member’s behalf after the illustration date; and
- (b) in any other case, that, until the member’s retirement date—
  - (i) contributions to the scheme will be made by the member or on the member’s behalf; <sup>2</sup>and◀
  - (ii) the scheme maintains its tax registration under section 153 of the Finance Act 2004 (registration of pension schemes); <sup>2</sup>◀

<sup>2</sup>Word inserted in reg. 18B(2)(b)(i) and words in para. (2)(b)(ii) & para. (2)(b)(iii) deleted by reg. 14(3)(a) & (b) of S.I. 2011/1245 as from 6.4.12.

(3)-(4) <sup>1</sup>◀

**Service of information by a scheme**

**18C.—**(1) Except where these Regulations otherwise provide, the trustees or manager of the scheme may furnish or give any relevant information by—

- (a) sending it to a member or beneficiary’s last known postal address; or

## Regs. 18C-18E

- (b) subject to paragraphs (2) to (4), using either or both of the following methods—
  - (i) sending it to a member or beneficiary’s last known electronic address,
  - (ii) making it available on a website (see regulation 18E).

(2) Where the member or beneficiary has requested in writing that—

- (a) any relevant information; or
- (b) all relevant information,

is not furnished or given in accordance with paragraph (1)(b), that relevant information may not be furnished or given in accordance with paragraph (1)(b).

(3) Relevant information may only be furnished or given in accordance with paragraph (1)(b) where the trustees or manager of the scheme are satisfied that the electronic communications have been designed—

- (a) so that members or beneficiaries will be able to—
  - (i) get access to, and
  - (ii) store or print, the relevant information; and
- (b) taking into account the requirements of disabled persons.

<sup>1</sup>Reg. 18C(4) substituted with 18C(4) & (4A) & words in 18E(1) substituted by para. 9(6) & (7)(a) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

►<sup>1</sup>(4) Where—

- (a) a member or beneficiary was a member or beneficiary of the scheme on 1st December 2010; and
- (b) relevant information was not given by the trustees or managers of the scheme before that date by the methods described in paragraph (1)(b), relevant information may not be furnished or given to the member or beneficiary in accordance with paragraph (1)(b) unless the trustees or managers of the scheme have given them the written notice referred to in paragraph (5).

(4A) The written notice mentioned in paragraph (4) must not be given by the methods mentioned in paragraph (1)(b).◀

(5) The written notice mentioned in paragraph (4) must state that—

- (a) the trustees or manager of the scheme propose to furnish or give relevant information to the member or beneficiary by means of an electronic communication; and
- (b) the member or beneficiary may request in writing that relevant information is not furnished or given by means of an electronic communication.

(6) In this regulation, “relevant information” means any information, declaration, notice, notification or statement which these Regulations require the trustees or manager of a scheme to give or furnish to a member or beneficiary of the scheme.

#### Service of information to a scheme

**18D.** Any—

- (a) request for information to be given or furnished in pursuance of these Regulations; or
- (b) information to be given to the trustees or manager of a scheme in relation to requirements imposed by these Regulations,

may be furnished, made or given by sending it to the trustees or manager of the scheme by post.

#### Provision of information on a website

**18E.**—(1) ►<sup>1</sup>this regulation and regulation 18F set◀ out the conditions which must be met when making relevant information available on a website under regulation 18C(1)(b)(ii).

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▶<sup>1</sup>(2) When a website is used for the first time to make available relevant information, a notification must be given to the recipient.◀

(3) The notification referred to in paragraph (2) must include—

- (a) a statement that the relevant information is available on the website;
- (b) the website address;
- (c) details of the place on the website where the relevant information may be read; and
- (d) an explanation of how the recipient may read the relevant information on the website.

▶<sup>1</sup>(4) Subject to regulation 18F, each time a website is used at a subsequent time to make available information or documents, a notification must be given to the recipient.

(4A) The notification referred to in paragraph (4) must state that the information or document is available on the website.

(4B) The notifications mentioned in paragraphs (2) and (4) must not be given by making them available on a website.◀

(5) The notification referred to in paragraph (4) must include a statement that the relevant information is available on the website.

(6) ▶<sup>1</sup>◀

(7) In this regulation ▶<sup>1</sup>and regulation 18F◀—

“recipient” means the person or body to whom these Regulations require statements or information to be made available, and

“relevant information” has the same meaning as in regulation 18C(6).◀

**▶<sup>1</sup>Provision of information on a website: supplemental**

**18F.**—(1) The notification mentioned in regulation 18E(4) need not be given where paragraphs to (4) are satisfied.

(2) This paragraph is satisfied where—

- (a) the trustees or managers of the scheme have given the recipient at least two documents by either of the following methods—
  - (i) given by hand, or
  - (ii) sent to the recipient’s last known postal address, and
- (b) each of those documents—
  - (i) asks the recipient to give their electronic address to the trustees or managers of the scheme except where the trustees or managers of the scheme do not have the facility for sending information or documents to that address, and
  - (ii) states that the recipient may request in writing that information or documents are not given by means of an electronic communication.

(3) This paragraph is satisfied where—

- (a) paragraph (2) is satisfied, and
- (b) the trustees or managers of the scheme have given the recipient, by either of the methods mentioned in paragraph (2)(a), a further document that—
  - (i) meets the requirements of paragraph (2)(b), and
  - (ii) states that further information and documents will be available to read on the website and that no further notifications will be sent to the recipient.

(4) This paragraph is satisfied where—

- (a) paragraphs (2) and (3) are satisfied, and
- (b) the trustees or manager of the scheme—

<sup>1</sup>Reg. 18E(2) & (4) substituted 18E(6) omitted & words in 18E(7) & reg. 18F inserted by para. 9(7)(b)-(e) & (8) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

- (i) do not know the recipient's electronic address or do not have the facility for sending information or documents to that address, and
- (ii) have not received a written request that information or documents are not given to the recipient by means of an electronic communication.

(5) Where the information to be made available is that required by regulation 18A(1), the notification referred to in regulation 18E(4) need only be given as required by regulation 18A(1).◀

#### **Requirement for trustees of a stakeholder pension scheme established under a trust**

**19.** For the purposes of section 1(1)(b), it shall be a condition of a scheme which is established under a trust being a stakeholder pension scheme that the scheme comply with sections 35 and 36 (functions of trustees) of the 1995 Act ▶<sup>1</sup>◀.

<sup>1</sup>Words omitted in reg. 19 by para. 12(1) of Sch. 3 to S.I. 2005/3377 as from 30.12.05.

## PART III

### REGISTRATION OF STAKEHOLDER PENSION SCHEMES

#### **Persons who may apply for registration of stakeholder pension schemes not established under trust**

**20.** For the purposes of subsections (2) and (4) of section 2 (prescribed persons may apply for registration of stakeholder pension schemes and will be liable to penalties in certain circumstances connected with such application) the prescribed person in relation to a scheme not established under a trust is the manager of the scheme.

#### **Access to the register**

<sup>2</sup>Words omitted in reg. 21(1) by reg. 16(3) of S.I. 2009/615 as from 6.4.09.

**21.—**(1) The ▶<sup>2</sup>◀ Authority shall supply the most recent copy of the register to any person on request either—

- (a) free of charge; or
- (b) where a charge is made, at an amount that does not exceed the expense incurred in copying, posting and packing the statement.

(2) The Authority may publish the register in any way.

## PART IV

### EMPLOYER REQUIREMENTS

**22.-23.** ▶<sup>3</sup>◀

<sup>3</sup>Regs. 22 & 23 revoked by reg. 8(2)(c) & (d) of S.I. 2013/459 as from 6.4.13.

#### **Payroll deduction of contributions**

<sup>4</sup>Words substituted, deleted in reg. 24(1) & para. (2)(a) substituted by reg. 16(1)-(3) of S.I. 2001/934 as from 5.4.01.

<sup>5</sup>Words omitted, substituted in reg. 24(1), (2) by reg. 8(5)(a)-(b) of S.I. 2013/459 as from 6.4.13.

**24.—**(1) ▶<sup>4</sup>Subject to paragraphs (2) and (2A)◀, where an employee requests an employer to ▶<sup>5</sup>◀ vary (but not cease) deductions of the employee's contributions to a qualifying scheme from his remuneration ("the request"), the employer must comply with the request as soon as possible, but no later than ▶<sup>4</sup>the end of—

- (a) the pay period following that in which the request is made; or
- (b) where the request relates to a pay period later than the one following that in which the request is made, that later pay period.◀

(2) Where an employee makes the request within 6 months of requesting the same employer to ▶<sup>5</sup>vary◀ or cease deductions of the employee's contributions to a qualifying scheme from the employee's remuneration, the employer need not comply with the request but, where he does not do so, he must give notice to the employee in writing—

▶<sup>4</sup>(a) that—

- (i) he is not complying with the request; and

- (ii) the reason he is not complying with it is that it was made within 6 months of the employee requesting him to vary such deductions and the employer is permitted by these Regulations not to comply with it in such circumstances;
- (b) informing him of the date (which must be no later than 6 months after the date of the employee's previous request to vary such deductions) that the employee can make a new request to vary deductions of the employee's contributions; and
- (c) informing him that—
  - (i) he may require the employer to cease such deductions (if deductions are being made at the time of the request) but, if the employee makes such a request, the employer is not required to comply with any further request to make such deductions; and
  - (ii) the employee may be able to make payments, (subject to the trustees or manager refusing to accept them as permitted by or under these Regulations) at a rate of his choosing, directly to the qualifying scheme.

<sup>1</sup>Words in reg. 24(a) (ii)(b) substituted, deleted in 24(b), (c)(i) & (2B) & (d) & (3)(a)(ii) and inserted in para. (2)(c)(ii) & (2B)(d)(ii) by reg. 8(5)(a)-(d) of S.I. 2013/459 as from 6.4.13.

<sup>2</sup>Words substituted, deleted & inserted in reg. 24(1) & (2) & regs. 24(2A) & (2B) inserted by reg. 16 of S.I. 2001/934 as from 5.4.01.

<sup>2</sup>(2A) Where the trustees or manager of the scheme in relation to which the request is made inform the employer that they will refuse, in accordance with regulation 17, to accept payment—

- (a) of a contribution to which the request relates, the employer need not comply with the request so far as the request to that contribution;
- (b) of contributions of a particular type, the employer need not comply with the request so far as the request relates to that contribution of that particular type.

(2B) Where the employer, on a ground mentioned in paragraph (2A), does not comply with the request, he must give notice to the employee in writing—

- (a) that, and of the extent to which, he is not complying with the request;
- (b) that the reason he is not complying with the request to that extent is that—
  - (i) the trustees or manager have informed the employer that they will refuse, in accordance with regulation 17, to accept payment of a contribution to which the request relates or of contributions of a particular type; and
  - (ii) the employer is permitted by these Regulations not to comply with the request so far as the request relates to that contribution or to a contributions of that particular type; and
- (c) where the trustees or manager cite to the employer the ground of refusal in regulation 17 on which they will rely to refuse that contribution or contributions of that particular type, informing him that the trustees or manger have cited that ground of refusal in relation to that contribution or to contributions of that particular type; and
- (d) informing him that—
  - (i) he may require the employer to cease such deductions (if deductions are being made at the time of the request) but, if the employee makes such a request, the employer is not required to comply with any further request to request to make such deductions; and
  - (ii) the employee may be able to make payments, (subject to the trustees or manager refusing to accept them as permitted by or under these Regulations) at a rate of his choosing, directly to the qualifying scheme.

<sup>3</sup>(3) Where an employee requests an employer to cease to make deductions from the employee's remuneration on account of contributions to a qualifying scheme, the employer must—

<sup>3</sup>Reg. 24(3) substituted by reg. 16 of S.I. 2001/934 as from 5.4.01.

- (a) comply with that request as soon as possible, but no later than the end of—
  - (i) the pay period following that in which that request is made; or
  - (ii) where that request relates to a pay period later than the one following that in which that request is made, that later pay period;

## Reg. 24

<sup>1</sup>Sub-paras. (3)(b), (4) deleted and paras. (5A) & (5B) inserted by reg. 8(5)(d)-(e) of S.I. 2013/459 as from 6.4.13.

(b) ►<sup>1</sup>◄◄

(4) ►<sup>1</sup>◄

(5) Where an employer is notified that a stakeholder pension scheme that has been designated by him for the purposes of section 3(2) of the Act has commenced winding-up, the employer must immediately cease making deductions from the employee's remuneration on account of contributions to that scheme and notify the employee in writing as soon as is practicable that those deductions have ceased.

►<sup>1</sup>(5A) Where an employer has withdrawn their designation of a stakeholder pension scheme that has been designated by him for the purposes of section 3(2)(a) of the Act for reasons beyond their control, the employer must immediately cease deducting contributions from the employee's remuneration and notify the employee in writing as soon as is practicable that designation of that scheme has been withdrawn and deduction of contributions has ceased.

(5B) Where an employer—

- (a) is notified that a stakeholder pension scheme that has been designated by the employer for the purposes of section 3(2) of the Act has commenced winding up; or
- (b) withdraws designation of a stakeholder pension scheme that has been designated by the employer for the purposes of section 3(2) of the Act for reasons beyond the employer's control,

the employer need not comply with the requirement in section 3(5) of the Act. ◄

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(a) Section 3(2) was omitted by section 87(5) of the Pensions Act 2008 (c. 30).



## Regs. 24-25

▶<sup>1</sup>(6) Any notice to be given under any of paragraphs ▶<sup>2</sup>(2) and (2B)◀ must be given prior to the end of—

- (a) the pay period following that in which the request to which to which that request to which the notice relates is made; or
- (b) where that request relates to a pay period later than the one following that in which that request is made, that later pay period.

(7) In this regulation ▶<sup>2</sup>◀ references, in relation to an employer, to an employee are references to a relevant employee of that employer where that relevant employee is a member of a qualifying scheme.◀

<sup>1</sup>Paras. (6) & (7) inserted in reg. 24 by reg. 16(6) of S.I. 2001/934 as from 5.4.01.

<sup>2</sup>Words substituted in reg. 24(6) & deleted in reg. 24(7) by reg. 8(5)(h) & (i) of S.I. 2013/459 as from 6.4.13.

**Disclosure of information to relevant employees**

**25.**—(1) Where an employee for the first time requests an employer ▶<sup>3</sup>to make (but not vary or cease)◀ deductions of the employee's contributions to a qualifying scheme from his remuneration, the employer must, within 2 weeks of receiving that request, give notice in writing to the employee containing the information referred to in paragraph .

<sup>3</sup>Words substituted & deleted in regs. 25(1) & (2) & sub-para. (e) inserted in reg. 25(2) by reg. 17 of S.I. 2001/934 as from 5.4.01.

(2) The information to be provided under paragraph (1) is—

- (a) the manner in which the employer will accept requests to make, vary or cease such deductions;
- (b) advice that, where an employee requests an employer to make or vary deductions of the employee's contributions to a qualifying scheme from the employee's remuneration, the employer need not comply with that request to ▶<sup>3</sup>within◀—
  - (i) ▶<sup>3</sup>◀ 6 months of the date of any previous request to make, vary or cease such deductions; or
  - (ii) where the employer is agreeable to complying with the request within a lesser period than 6 months of a previous request, that lesser period;
- (c) advice that the employee may, at any time, require the employer to cease such deductions ▶<sup>3</sup>◀; ▶<sup>3</sup>◀
- (d) advice that, where the employer is required to comply with a request to make, vary or cease such deductions, ▶<sup>3</sup>that request◀ will be complied with as soon as possible but no later than ▶<sup>3</sup>the end of—
  - (a) the pay period following that in which that request is made; or
  - (b) where that request relates to a pay period later than the one following that in which that request is made, that later pay period.◀

▶<sup>3</sup>and

- (e) advice that—
  - (i) the trustees or manager of the scheme may refuse to accept a contribution if accepting it would contravene the scheme's ▶<sup>4</sup>tax-registration◀
  - (ii) if the instruments establishing the scheme allow it, the trustees or manager may also refuse to accept payments of less than £20; and
  - (iii) where an employee requests an employer to make or vary deductions of the employee's contributions to a qualifying scheme from the employee's remuneration, the employer need not comply with that request so far as that request relates to any particular contribution, if the trustees or manager of the scheme inform the employer that they will refuse, in accordance with the regulation which allows them to refuse" payments on the grounds referred to in sub-paragraphs (i) and (ii) (and on other grounds), to accept that contribution or contributions of that particular type.◀

<sup>4</sup>Words substituted in reg. 25(2)(e)(i) by art. 20(7) of S.I. 2006/744 as from 6.4.06.

PART V

AMENDMENT OF REGULATIONS UNDER THE PENSION  
SCHEMES ACT 1993 AND THE PENSIONS ACT 1995

[Regulation 26 amends regulations 2A and 5 of S.I. 1987/1110.]

[Regulation 27 amends regulation 12 of S.I. 1991/167.]

[Regulation 28 amends regulations 1, 2, and 5 of S.I. 1996/1655.]

[Regulation 29 amends regulations 3 and 3A of S.I. 1996/1461.]

[Regulation 30 amends regulations 4(1) and 6(1) of S.I. 1996/1216.]

[Regulation 31 ►revoked by S.I. 2005/3378.]◀

**Application of other Regulations to stakeholder pension schemes**

**32.** The regulations listed in Schedule 2 shall apply to a pension scheme established under a trust which—

- (a) is not an occupational pension scheme; but
- (b) is or has been registered under section 2

as if it were an occupational pension scheme.

Signed by authority of the Secretary of State for Social Security.

24th May 2000

*Jeff Rooker*  
Minister of State,  
Department of Social Security

## SCHEDULE 1

PROVISIONS CONFERRING POWERS EXERCISED IN  
MAKING THESE REGULATIONS

<i>Title of Act</i>	<i>Powers</i>
Pension Schemes Act 1993(a)	section 28(2)(b) section 73(4) section 113
Pensions Act 1995(b)	section 181(1) section 3(2) section 10(1) and (2)(b) section 17(4)(b) section 19(4) section 27(3) and (5) section 32(2)(b) and (3) section 35(7) section 41(1)(a) and (b) and (6) section 47(5)(a) and (b), (6) and (9)(b) section 49(1),(2) and (4) section 50(1),(2)(a),(3) and (7) section 81(1)(c) and (2) section 83(2) and (3)(a) section 84(1)(b), (2) and (3) section 86 section 91(5)(c) and (e) section 92(3) and (6) section 94(1) section 124(1)
Welfare Reform and Pensions Act 1999(c)	section 174(2) and (3) section 1(1)(b), (2), (3), (4), (5) and (7) section 2(2), (4) and (7) section 3(1), (3)(b), (5) and (9) section 8(1) and (2) section 83(4), (5) and (6)(a) and
(b)	

(a) 1993 c. 48.

(b) 1995 c. 26.

(c) 1999 c. 30.

## SCHEDULE 2

Regulation 32

REGULATIONS APPLYING TO SCHEMES WHICH ARE OR  
HAVE BEEN REGISTERED UNDER SECTION 2

<i>Statutory Instrument</i>	<i>Regulations applying</i>
The Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997(a)	The whole of the Regulations except regulations 3, and 8(1) and (1A).
The Occupational Pension Schemes (Disclosure of Information) Regulations 1996(b)	Regulations 1, 2, 6 and 7 and Schedule 3 (except paragraph 16 of that Schedule)
<sup>1</sup> Ref. substituted in Col. 1 by reg. 6(3) of S.I. 2008/649 as from 6.4.08. ▶ <sup>1</sup> The Occupational Pension Schemes (Internal Dispute Resolution Procedures) Consequential and Miscellaneous Amendments) Regulations 2008(c)◀	The whole of the Regulations
The Occupational Pension Schemes (Investment) Regulations 1996(d)	Regulations 1 and 10
The Occupational and Personal Pension Schemes (Levy) Regulations 1997(e)	Regulations 5 to 8 and regulation 1 so far as relevant to those regulations.
The Occupational Pension Schemes (Pensions Compensation Provisions) Regulations 1997(f)	The whole of the Regulations except regulation 8
The Occupational Pension Schemes (Prohibition of Trustees) regulations 1997(g)	The whole of the Regulations
<sup>2</sup> Ref. substituted in col. 1 & words inserted in col. 2 by reg. 18 of S.I. 2001/934 as from 5.4.01. ▶ <sup>2</sup> The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996(h)◀	The whole of the Regulations except ▶ <sup>2</sup> regulation 2(1)(b) and 4 and◀ paragraph 5 of the Schedule to the Regulations
The Occupational Pension Schemes (Scheme Administration) Regulations 1996(i)	Regulations 1, 3(2)(a), (3) and (5) to (7), 4(1) and (2)(a) and (b), 5(1) to (10), 6(3), 7 to 11, 12(1) except sub-paragraph (b)(ix), 13(1) and 14

(a) S.I. 1997/785; as amended by S.I. 1999/1849.

(b) S.I. 1996/1655; as amended by S.I. 1997/786.

(c) S.I. 2008/649.

(d) S.I. 1996/3127.

(e) S.I. 1997/666; as amended by S.I.1998/600, 1999/682 and 2000/542.

(f) S.I. 1997/665.

(g) S.I. 1997/663.

(h) S.I. 1996/1975; as amended by S.I.'s 1997/786, 1997/3038 and 2000/833.

(i) S.I. 1996/1715; regulation 3(5) was inserted by S.I. 1998/1494, regulation 5 was amended by S.I. 1997/819 and 1998/3038 and regulation 7 was amended by S.I. 1997/819.

►<sup>1</sup>SCHEDULE 3 Regulations 18 and 18a

## INFORMATION FOR MEMBERS

<sup>1</sup>Sch. 3 inserted by Sch. to S.I. 2010/2659 as from 1.12.10.

1. The information which is to be provided under regulation 18A(1) is, subject to paragraph 4—

- (a) the value of the member's rights under the scheme on the day before the first day of the statement year, being an amount which is not less than the cash equivalent of those rights on that date, as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act (calculation of cash equivalents);
- (b) the value of the members rights—
  - (i) on the last day of the statement year, being an amount which is not less than the cash equivalent of those rights on that day; or
  - (ii) where the member ceases during the statement year to be a member, at the time immediately prior to the time at which the member so ceases, being an amount which is not less than the cash equivalent of those rights at the time immediately prior to the time at which the member so ceases,

as calculated and verified in a manner consistent with regulations made under section 97 of the 1993 Act;



- (c) in relation to any reduction under any of paragraphs (2) to (4) of regulation 14—
  - (i) the rate, expressed as an annual percentage rate, at which, and the period in relation to which, deductions giving rise to that reduction were made; or
  - (ii) where such deductions were made in relation to different periods at different rates—
    - (aa) each rate, expressed as an annual percentage rate, at which those deductions were made; and
    - (bb) the period in relation to which they were made at that rate; and
- (d) the member's date of birth used in determining the appropriate age-related percentage for the purposes of section 42A of the 1993 Act and the name and address of whom to contact should that date be incorrect.

2. The information which is listed in this paragraph, as mentioned in regulation 18A(1) and (7) and subject to paragraph 4, is—

- (a) the amount of the value mentioned in paragraph 1(b) that is attributable to investment gains or losses made or sustained by the scheme during that statement year;
- (b) the amount of each contribution made by or on behalf of, or made in respect of, the member (except contributions falling within sub-paragraph (c) of this paragraph) and the date on which it was received;
- (c) the amount of each contribution made by any employer on behalf of or in respect of the member and the date on which it was received;
- (d) except where contributions referred to in sub-paragraphs (b) and (c) are increased by the trustees or manager in anticipation of a payment to the scheme by the Inland Revenue by way of tax relief in respect of the member, the amount of each such payment by the Inland Revenue and the date on which it was received;
- (e) the amount of each payment to the scheme by way of minimum contributions in respect of the member and the date on which it was received;
- (f) the amount of each payment made to the scheme by way of minimum payments in respect of the member and the date on which it was received;
- (g) the amount of each payment made to the scheme under section 42A(3) of the 1993 Act (reduced rates of Class 1 contributions, and rebates) in respect of the member and the date on which it was received;

## Sch. 3

<sup>1</sup>Para. 2(k) of Sch. 3 revoked by reg. 8(2)(e) of S.I. 2013/459 as from 6.4.13.

- (h) the amount of any transfer payment made to the scheme in respect of the member, the name of the scheme or arrangement from which the payment was made and the date on which it was made;
  - (i) any amount credited to the member's account in respect of a credit within the meaning of section 29 (pension sharing: creation of pension debits and credits);
  - (j) any reduction under section 31 (pension sharing: reduction of benefit), or any enactment in force in Northern Ireland corresponding to that section, in the benefits or future benefits to which the member is entitled under the scheme;
  - (k)  <sup>1</sup> 
  - (l) any amount paid to the member by way of income withdrawal or dependants' income withdrawal as defined in paragraph 7 or, as the case may be, 21 of Schedule 28 to the Finance Act 2004 (registered pension schemes: authorised pensions - supplementary);
  - (m) any other amount deducted from the member's account, the nature of the deduction and the date on which it was made;
  - (n) the total amount of any part of any of the contributions and payments mentioned in sub-paragraphs (b) to (i) which has not been credited to the member's account and the manner in which that amount has been used; and
  - (o) where the whole or any part of the member's rights under the scheme is represented by rights in a with-profits fund—
    - (i) the principles adopted in allocating rights under that fund, including the extent of any smoothing of investment returns and the levels of any guarantees, and
    - (ii) the principles which will be adopted in allocating such rights if the member's rights under the scheme cease to be represented by rights in that fund.
3. The information listed in this paragraph, as mentioned in regulation 18A(1) and (7), is—
- (a) the total amount of contributions (not including contributions falling within sub-paragraph (b)) made by or on behalf of, or made in respect of, the member;
  - (b) the total amount of contributions made by any employer on behalf of, or in respect of, the member;
  - (c) except where contributions referred to in sub-paragraphs (a) and (b) are increased by the trustees or manager in anticipation of a payment to the scheme by the Inland Revenue by way of tax relief in respect of the member, the total amount of such payments by the Inland Revenue;
  - (d) the total amount of any deductions or payments from the member's account; and
  - (e) a statement that the member may request from the scheme any of the information listed in paragraph 2.
4. The information mentioned in paragraphs 1, 2 and 3 does not include—
- (a) the amount of any reduction or deduction under any of paragraphs (2) to (4) of regulation 14;
  - (b) the amount of any reduction under regulation 14(5)(c).
5. The additional information which is to accompany the information provided under regulation 18A(2) is—
- (a) a statement to the effect that the information provided under regulation 18A(2) is provided only for the purposes of illustration and that it does not represent any promise or guarantee as to the amount of benefit which may be receivable by the member or a beneficiary under the scheme;

- (b) a statement specifying the means by which the person to whom the information relates may obtain from the trustees or manager further information about the information provided under regulation 18A(2);
- (c) a statement to the effect that certain general assumptions have been made in relation to the information provided under regulation 18A(2);
- (d) a statement to the effect that the amount referred to in regulation 18A(2) is expressed in today's prices;
- (e) a statement of the member's retirement date for the purpose of regulation 18A(2); and
- (f) a statement of the illustration date used for the purpose of calculating the amount referred to in regulation 18A(2).

6. The further information which is to be provided, as mentioned in regulation 18A(3)(b) and (5)(b), is—

- (a) a statement to the effect that assumptions have been made about the nature of the investments made for the purposes of the member's money purchase benefits and their likely performance, which may not correspond with the investments actually made for those purposes, or their actual performance;
- (b) a statement to the effect that the actual amount of any pension payable to or in respect of the member under the scheme will depend on considerations, including the actual performance of investments and the cost of buying an annuity at the time the pension becomes payable, which may be different from the assumptions made for the purposes of providing the information under regulation 18A(2);
- (c) a statement specifying any assumptions made in relation to future contributions to the scheme; ►<sup>1</sup>◀
- <sup>1</sup>(d) a statement of any assumptions made relating to the lump sum, the level of increases in the pension and the pension payable to the spouse or civil partner, and
- (e) a statement of any changes to the assumptions mentioned in sub-paragraph (d) that were used for the previous information given under regulation 18A(2).◀

<sup>1</sup>Words in para. 6(c) omitted & para. 6(d) substituted with para. 6(d) & (e) by para. 9(9) of Sch. 9 to S.I. 2013/2734 as from 6.4.14.

7. The information listed in this paragraph, as mentioned in regulation 18A(9), is any change in the scheme's rules or practice as regards the extent to which or the circumstances in which—

- (a) any payment made to the scheme by or on behalf of a member,
- (b) any amount credited to the member's account in respect of a credit within the meaning of section 29 (pension sharing: creation of pension debits and credits),
- (c) any income or capital gain arising from the investment of such a payment, or
- (d) the value of any rights under the scheme,

may, in accordance with regulations 13, 14 and 14B, be used otherwise than to provide benefits for or in respect of that member.

8. In this Schedule "annual percentage rate" means the daily percentage rate at which deductions were made under regulation 14(2), (3) or (4) (being no greater than 1/365% of the value of the fund, share or rights in the with-profits fund respectively from which they were made) multiplied by 365.◀

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made principally under sections 1 to 8 of the Welfare Reform and Pensions Act 1999 (“the Act”), and other provisions listed in Schedule 1 to the Regulations, to make provision in connection with stakeholder pension schemes introduced by Part I of that Act. Apart from Part IV (which provides for the obligations of employers), the Regulations come into force on 1st October 2000.

Part I of the Regulations is concerned with citation, commencement and interpretation, and Part II with the conditions applying to stakeholder pension schemes. Regulation 2 provides for the establishment as a stakeholder pension scheme of a pension scheme which is not established under a trust. Regulations 3, 4 and 5 specify the requirements with which the instruments establishing a stakeholder pension scheme must comply, especially as respects their provision about membership of the scheme, its assets and the transfer of members’ rights on winding-up. Regulation 3 applies in the case of all such schemes, regulation 4 in the case of schemes established under a trust, and regulation 5 in the case of schemes not established under a trust. Regulations 6 and 7 are concerned with the manner in which the rights of members under a stakeholder pension scheme are to be discharged when the scheme winds up.

Regulations 8 to 12, 15, 16, 18 and 19 provide for the requirements which must be complied with by a pension scheme as a condition of its being a stakeholder pension scheme, and are concerned in particular with such matters as the investment of funds, (regulations 8-10 and 15), reporting obligations, including declarations to be made by trustees and managers, and statements by auditors and accountants, in connection with the scheme (regulations 11 and 12), the provision by schemes of services apart from the management of funds (regulation 16), the provision of information to members (regulation 18) and the obligations of trustees (regulation 19).

Regulations 13 and 14 provide for the circumstances in which payments and credits to the scheme, returns on investments and members’ rights under the scheme may be used for purposes other than the provision of benefits for members, and in particular for defraying administrative expenses, charges, etc. Regulation 17 makes provision for the minimum level of contributions to stakeholder pension schemes and the circumstances in which trustees or managers may refuse contributions.

Part III of the Regulations is concerned with the registration of stakeholder pension schemes, especially as respects the persons who may apply for registration of schemes not established under trusts, and access to the register (regulations 20 and 21).

Part IV of the Regulations, which comes into force on 8th October 2001, makes provision in connection with the duty of employers to facilitate access to stakeholder pension schemes, and in particular for the circumstances in which employers are exempt from those requirements (regulation 22), for the deduction of contributions to such schemes from employees’ remuneration (regulation 24) and for the disclosure of information to employees about such schemes (regulation 25).

Part V of the Regulations makes textual amendments in Regulations made under the Pension Schemes Act 1993 and the Pensions Act 1995 in consequence of the introduction of stakeholder pension schemes, and applies to those schemes which are not occupational pension schemes the provisions of Regulations specified in Schedule 2 as if they were occupational pension schemes.

An assessment of the cost to business of the introduction of stakeholder pension schemes under Part I of the Act and these Regulations is detailed in a Regulatory Impact Assessment, a copy of which has been placed in the libraries of both Houses of Parliament. Copies of the Assessment are available from the Department of Social Security, Regulatory Impact Unit, Third Floor, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.