

# Funding defined benefits

REGULATORY  
Code of  
practice  
03

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## Requirements at a glance

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### **Key elements**

- A statement of funding principles specific to the circumstances of each scheme setting out how the statutory funding objective will be met.
- Periodic actuarial valuations and actuarial reports.
- A schedule of contributions.
- A recovery plan where the statutory funding objective is not met.

### **To whom do the requirements apply?**

- Trustees of most private sector funded occupational schemes providing defined benefits.

### **Who else needs to be involved?**

- The sponsoring employer whose agreement is generally required to:
  - the statement of funding principles;
  - any recovery plan; and
  - the schedule of contributions.
- The actuary who will, following the trustees' instructions:
  - prepare the periodic actuarial valuation and intermediate actuarial reports;
  - provide advice about the statement of funding principles, the schedule of contributions, any recovery plan and any modification of the future accrual of benefits;
  - certify certain valuation calculations and the adequacy of the schedule of contributions, or advise the Pensions Regulator of failure to do so.



## Introduction

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- The Pensions Regulator**
1. Codes of practice are issued by the Pensions Regulator, the body that regulates work-based pension arrangements (occupational pension schemes and certain aspects of stakeholder and other personal pensions).
  2. The Pensions Regulator's statutory objectives are to protect the benefits of pension scheme members, to reduce the risk of calls on the Pension Protection Fund, and to promote the good administration of work-based pension schemes.
  3. The Pensions Regulator has a number of regulatory tools, including issuing codes of practice, to enable it to meet its objectives. The Pensions Regulator will target its resources on those areas where members' benefits are at greatest risk.
  4. Codes of practice provide practical guidelines on the requirements of pensions legislation<sup>1</sup> and set out the standards of conduct and practice expected of those who must meet these requirements.<sup>2</sup> The intention is that the standards set out in the code are consistent with how a well-run pension scheme would choose to meet its legal obligations.
- The status of codes of practice**
5. Codes of practice are not statements of the law and there is no penalty for failing to comply with them.<sup>3</sup> It is not necessary for all the provisions of a code of practice to be followed in every circumstance. Any alternative approach to that appearing in the code of practice will nevertheless need to meet the underlying legal requirements, and a penalty may be imposed if these requirements are not met. When determining whether the legal requirements have been met, a court or tribunal must take any relevant provisions of a code of practice into account.<sup>4</sup>

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1 See paragraph 21 on page 13 for an explanation of the legislative references used in this code and the footnotes.

2 See section 90(1).

3 See section 90(4).

4 See section 90(5).

## Introduction continued

- This code of practice**
6. The Pensions Regulator is required to issue this code of practice (code).<sup>5</sup> The Pensions Regulator has also taken the opportunity to provide further guidance.<sup>6</sup>

- Aims of this code**
7. This code aims to assist trustees to discharge their duties under the new legislative requirements concerning the funding of defined benefits.<sup>7</sup> These requirements apply to any valuation received by trustees on or after 30 December 2005 which is based on an effective date of 22 September 2005 or later. Transitional arrangements will apply to those schemes that were previously subject to the minimum funding requirement (MFR).<sup>8</sup>

8. This code also assists trustees to discharge their duties under the new legislative provisions concerning those disclosure of information requirements linked to the scheme funding provisions of Part 3.<sup>9</sup>

9. The code also sets out what are regarded as reasonable periods for both passing certain information, and reporting, to the Pensions Regulator.<sup>10</sup>

- To whom is the code directed?**
10. The code is directed at the trustees of all occupational pension schemes providing defined benefits subject to Part 3. It also applies, in certain respects, to actuaries appointed by the trustees.

11. The code may be useful to the trustees' advisers, the trustees as well as to employers and their advisers.

12. Trustees reading this code are expected to have some knowledge and understanding of the funding of defined benefits. For more information on what is expected, please refer to the Pensions Regulator's code of practice on 'Trustee knowledge and understanding'<sup>11</sup> and its associated guidance on the scope of the requirements. It also provides guidance to trustees on how to comply with the requirements to have knowledge and understanding of pensions and trust law, the principles of investment and scheme documents.<sup>12</sup>

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5 See sections 90(2)(a), 90(2)(d) and 90(2)(g).

6 See section 90(1).

7 See Part 3 and the Occupational Pension Schemes (Scheme Funding) Regulations 2005 (SI 2005/3377).

8 See Schedule 4.

9 See the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (SI 1996/1655) (as amended) and Schedule 3.

10 The Pensions Regulator is required to issue a code of practice upon what constitutes a reasonable period: see section 90(2)(a).

11 Expected to be available from April 2006.

12 See sections 247 to 249.

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**To which schemes does the code apply?**

13. The scheme funding requirements of Part 3 and, therefore, the code apply to all occupational pension schemes providing defined benefits (ie those schemes not wholly money purchase<sup>13</sup>) unless exempted.<sup>14</sup> Trustees of all occupational pension schemes will need to consider carefully the question of whether and to what extent the requirements apply to their scheme.
14. Schemes will be subject to the requirements where the rules define some or all of the benefits independently of the contributions payable and these benefits are not solely related to the performance of the scheme's investments. Schemes are not wholly money purchase where:
- the level of any of the benefits is guaranteed under the scheme provisions (as opposed to a guarantee under an investment contract) or where there is a minimum rate of accumulation; or
  - there is any form of underpin (for example, a scheme providing ostensibly money purchase benefits for employees who are or were contracted out of the state second tier pension – State Second Pension, formerly State Earnings Related Pension Scheme – under the Reference Scheme Test or by the provision of Guaranteed Minimum Pensions).
15. However, schemes which are not wholly money purchase simply because they provide a defined death-in-service lump sum benefit (such as a benefit defined as a multiple of pay) are exempt from Part 3 if that benefit is fully insured.<sup>15</sup>
16. Schemes which began to wind up before 30 December 2005 are not subject to Part 3. Schemes which begin to wind up on or after 30 December 2005 are subject to a limited requirement under Part 3, to obtain an annual estimate by their actuary of the solvency position of the scheme.<sup>16</sup>

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13 See section 318(1) and also section 181(1) of the Pension Schemes Act 1993 (as amended) for the definition of a 'money purchase scheme'

14 See section 221 and regulation 17.

15 See regulation 17(1)(j).

16 See regulation 18.

## Contents continued

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- Other relevant Pensions Regulator codes**
17. The code of practice on ‘Reporting breaches of the law’<sup>17</sup> sets out what is expected of trustees (and others) in reporting matters of material significance to the Pensions Regulator.<sup>18</sup>
18. The code of practice on ‘Notifiable events’<sup>19</sup> explains the duty of trustees and employers to notify the Pensions Regulator about certain scheme-related and employer-related events.<sup>20</sup>
19. The responsibilities to report matters under paragraphs 17 and 18 above are in addition to those specific matters that in some cases the trustees, and in other cases the actuary, must report to the Pensions Regulator under the scheme funding requirements.<sup>21</sup>

### Northern Ireland

In this code of practice, references to the law that applies in Great Britain should be taken to include corresponding legislation in Northern Ireland. The Appendix to this code lists the corresponding references.

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- 17 Issued by the Pensions Regulator in April 2005.  
See section 70.
- 18 Issued by the Pensions Regulator in June 2005.  
See section 69.
- 19 See sections 225(3), 227(9), 228(2) and 229(5).
- 20
- 21

## Using the code

### Legislative requirements and code guidelines

20. In this code, legislative requirements are indicated by ‘must’, and code guidelines by ‘should’.

### Legislative and other references

21. In this code (and the footnotes) unless stated otherwise all references to:

- ‘sections’ and ‘Parts’ are to those from the Pensions Act 2004;
- ‘regulations’ and ‘Schedules’ are to those from the Occupational Pension Schemes (Scheme Funding) Regulations 2005 (SI 2005/3377); and
- ‘Guidance Notes’ are to professional guidance issued by the UK’s actuarial profession.<sup>22</sup>

### Terminology

22. In this code certain terms have the following meanings:

#### *Trustees and managers*

The legislation refers to the duties imposed upon a scheme’s ‘trustees or managers’. All the references to ‘trustees’ should be taken to be references to trustees or managers.

#### *Statutory funding objective*

Every scheme is subject to the statutory funding objective which is to have sufficient and appropriate assets to cover its ‘technical provisions’.

#### *Technical provisions*

The ‘technical provisions’ are an estimate, made on actuarial principles, of the assets needed at any particular time to make provision for benefits already accrued under the scheme. These include pensions in payment (including those payable to survivors of former members) and benefits accrued by other members which will become payable in the future.

#### *Actuary*

Except where the text indicates otherwise the term ‘actuary’ is used in this code to refer to the actuary either appointed<sup>23</sup> or authorised<sup>24</sup> by the trustees, and who fulfils the statutory functions under Part 3.

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22 The Institute of Actuaries, Staple Inn Hall, High Holborn, London WC1V 7QJ and the Faculty of Actuaries, Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP, whose joint website address is [www.actuaries.org.uk](http://www.actuaries.org.uk).

23 See section 47(1)(b) of the Pensions Act 1995.

24 See paragraph 10 of Schedule 2.

## Using the code continued

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### *Actuarial valuation*

An actuarial valuation is a comparison by the actuary of the value placed on scheme assets with the technical provisions and an assessment of any future contribution requirement. Calculations of the technical provisions will usually be based on full member-by-member data.

### *Actuarial report*

An actuarial report is the actuary's estimate of changes to the funding position of the scheme since the last actuarial valuation. Unlike the actuarial valuation it will not usually be based on such detailed member-by-member calculations.

### *Effective date*

An actuarial valuation or an actuarial report considers the funding of a scheme as at a particular date, known as the effective date. The effective date will be earlier than the date on which calculations are done.

### **Flags used in this code**

23. Flags occur at relevant places in the text to indicate where the legislative provision in respect of those schemes identified by the flag in question is different to that described. The relevant differences are set out under each flag description below:

#### *Trustee/employer agreement*

- ♠ Trustees must normally reach agreement with the employer on certain key scheme funding matters. However, the legislation requiring the employer's agreement is modified for schemes where the rules give someone other than the employer the power to determine the contribution rate. The table opposite summarises these modifications.

<b>Rules of the scheme</b>	<b>Effect of legislation</b>
Trustees have, unrestrained by conditions, the power to determine the contribution rate and no other person has the power to reduce or suspend contributions.	Trustees are required to consult the employer but the employer's agreement is not required. <sup>25</sup>
Trustees have, subject to conditions, the power to determine the contribution rate and no other person has the power to reduce or suspend contributions.	If the conditions are satisfied, trustees are required to consult the employer but the employer's agreement is not required. <sup>26</sup>
The contribution rate is determined by, or on the advice of, a person other than the trustees or the employer (usually the actuary).	Trustees must obtain the employer's agreement. They must take into account the recommendations of the other person on the method and assumptions for calculating the technical provisions and on the preparation of any recovery plan. <sup>27</sup>

If under the rules of the scheme the actuary determines the rate, then the actuary must only certify the schedule of contributions if:

- where there are conditions, those conditions are satisfied; and
- the rates shown are no lower than those the actuary would have provided for if the actuary had been responsible for preparing the schedule, the statement of funding principles and any recovery plan.<sup>28</sup>

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25 See paragraphs 9(1) to 9(3) of Schedule 2.

26 See paragraph 9 (1) to 9(4) of Schedule 2.

27 See regulations 5(3)(b) and 8(2)(e). The Pensions Regulator must also take into account this other person's recommendations when exercising any of its Part 3 powers, see section 231(2) and regulation 14(1).

28 See paragraphs 9(5) to 9(7) of Schedule 2.

## Using the code continued

### *Cross-border schemes*

- ◆ A scheme which operates cross-border within the European Union is subject to certain more stringent scheme funding requirements. In particular, such schemes must have annual actuarial valuations and each valuation must be signed by the actuary and received by the trustees within one year of its effective date. Schedules of contributions covering a two year period must be prepared or, if one is already in place, reviewed and if necessary revised within twelve months of the valuation's effective date, and any shortfalls identified must be made good within two years of the effective date.<sup>29</sup>

### *Schemes with fewer than 100 members*

- ♣ A scheme (other than a cross-border scheme) with fewer than 100 members on the effective date of the last actuarial valuation under Part 3 need not obtain actuarial reports at each anniversary between actuarial valuations<sup>30</sup> unless the scheme had 100 or more members at any time during the year.<sup>31</sup> In any year when the scheme is not required to obtain an actuarial report, it is not required to issue a funding statement.<sup>32</sup>

### *Multi-employer schemes*

- ♪ A scheme in which there is more than one participating employer. In cases where a multi-employer scheme is segregated such that, broadly, assets and liabilities are allocated to separate sections and there is no cross-subsidy between sections, each section is treated as a separate scheme for the purposes of Part 3.<sup>33</sup>

For the purposes of reaching agreement with the employer where a scheme has more than one employer, a person may be nominated to act as the employers' representative either:

- by the employers; or
- under the rules of the scheme.<sup>34</sup>

If no nomination is made, agreement must be reached with all the employers. However, except in the case of an agreement to modify the future accrual of benefits, an employer may waive his right to agree.<sup>35</sup>

29 See paragraph 6 of Schedule 2 and the Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (SI 2005/3381).

30 See paragraph 11 of Schedule 2.

31 For the definition of members see Section 124(1) of the Pensions Act 1995.

32 See paragraph 2(3)(b) of Schedule 3.

33 See paragraph 1(1) of Schedule 2.

34 See paragraph 2 of Schedule 2.

35 See also paragraph 2 of Schedule 2.



### *Shared cost schemes*

- ♥ Shared cost schemes are schemes whose provisions are such that:
  - contributions are payable by active members and the employer in proportions specified in the rules of the scheme; and
  - where there is a funding shortfall to be addressed by additional contributions, these will be from both the active members and the employer in the same specified proportions.

Trustees of a shared cost scheme may:

- modify their scheme such that any additional contributions required are paid by members and the employer in the specified proportions; or
- with the employer's agreement, modify the scheme so that any additional contributions that are required are to be paid by members and the employer but with the employer paying either a higher proportion than specified in scheme rules or the entire amount.<sup>36</sup>

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## Preliminary considerations

- What trustees need to establish**
24. Trustees of schemes to which the scheme funding legislation applies need to establish:
- who determines the rates of contributions under the scheme rules of the scheme and whether any conditions apply;<sup>♠</sup>
  - whether the scheme has fewer than 100 members;<sup>♣</sup>
  - whether more than one employer participates in the scheme;<sup>♪</sup>
  - if more than one employer participates in the scheme, whether it is divided into separate segregated sections so that Part 3 applies to each section as if it were a separate scheme;
  - who is responsible for making up funding shortfalls, whether it is solely the employer or whether the cost is shared between the employer and the active members;<sup>♥</sup>
  - if the cost is shared between the employer and the active members, whether it is a ‘shared cost’ scheme;<sup>♥</sup>
  - whether the scheme operates cross-border within the European Union;<sup>♦</sup>
  - whether the scheme is in wind-up; and
  - whether the scheme is a regulatory own funds scheme<sup>37</sup>.
25. Trustees should take advice from one or more appropriate and properly appointed advisers on this or any other matter about which they are unsure.

- ♥ Shared-cost schemes  
♠ Trustee/employer agreement  
♣ Schemes with fewer than 100 members  
♪ Multi-employer schemes  
♦ Cross-border schemes

37 See regulation 3(3) of the Occupational Pension Schemes (Regulatory Own Funds) Regulations 2005 (SI 2005/3380) for the definition of a regulatory own funds scheme and these regulations for the legislative requirements which apply to them. This code does not provide guidance for trustees of these schemes except in relation to references to ‘reasonable periods’ in these regulations: see paragraphs 172 to 174 of this code.

## Approaching the valuation process

### Objective and essential features

26. The statutory funding objective requires a scheme to be funded to at least the level of its technical provisions. Regular valuations must be obtained by the trustees to check whether the statutory funding objective is met.<sup>38</sup> The results of each valuation form the basis for decisions about future contributions to the scheme, including whether a recovery plan is needed to restore funding to the level of the technical provisions.
27. Obtaining these regular actuarial valuations and making decisions about contributions is a business process which requires trustees to:
- decide on their funding policy and draw up a statement of funding principles;<sup>39</sup>
  - obtain the valuation itself comparing assets with technical provisions;<sup>40</sup>
  - draw up a recovery plan if there is a funding shortfall;<sup>41</sup>
  - set out the future contribution requirements in a schedule of contributions;<sup>42</sup> and
  - in some circumstances, modify the future accrual of benefits (if this proves necessary and if the employer agrees).<sup>43</sup>
28. Before doing each of the above, trustees must obtain advice from their actuary and reach agreement with the employer.<sup>44</sup>♠

continued over...

- 38 See section 224(1)(a).  
39 See paragraphs 69 to 94.  
40 See paragraphs 95 to 98.  
41 See paragraphs 99 to 108.  
42 See paragraphs 114 to 126.  
43 See paragraphs 109 to 113.  
44 See sections 230(1) and 229(1) respectively.  
♠ Trustee/employer agreement

## Approaching the valuation process continued

29. **Timings**  
*First scheme funding valuation*  
The effective date of a scheme's first actuarial valuation under Part 3 depends on whether it was established before 30 December 2005 and if so whether it was previously subject to the MFR. The following table sets out the broad position:<sup>45</sup>

<b>Scheme status</b>	<b>Must have first valuation under Part 3:</b>
A scheme which was subject to the MFR on 29 December 2005.	with an effective date not later than three years after the effective date of the scheme's last MFR valuation.
A scheme which was previously exempted from the MFR but is subject to Part 3.	with an effective date not later than one year after 30 December 2005.
A scheme established on or after 30 December 2005.	with an effective date not later than one year after being established.

30. *Subsequent valuations*  
If the trustees obtain actuarial reports for the years between valuations then subsequent actuarial valuations must have effective dates no more than three years from the effective date of the previous actuarial valuation.<sup>46</sup>♣♦

31. If the trustees do not obtain actuarial reports for the years between valuations then subsequent actuarial valuations must have effective dates no more than one year from the effective date of the previous actuarial valuation.<sup>47</sup>♣

32. *Deadline for completion*  
The valuation process is complete when a schedule of contributions certified by the scheme actuary is in place. There is an overall deadline of fifteen months (eighteen months for some transitional cases) from the effective date of each actuarial valuation for completing the process.<sup>48</sup>♦

<sup>45</sup> See paragraph 3 of Schedule 4.

<sup>46</sup> See sections 224(1)(a) and 224(3).

<sup>47</sup> See sections 224(1)(a) and 224(3)(b).

<sup>48</sup> See regulation 9(1) and also see paragraph 3 of Schedule 4 for transitional arrangements.

♣ Schemes with fewer than 100 members

♦ Cross-border schemes

33. *Action plan for the valuation process*  
The trustees are responsible for managing the valuation process. Consequently, they should draw up an action plan setting out who will need to do what and by when. They should consider drawing up the plan in advance of the valuation's effective date. Timings will need to be agreed with all those from whom actions are required under the plan. The trustees should circulate the final plan and any subsequent amendments to all relevant parties.

34. *Features of an action plan*  
In drawing up the action plan, trustees should:

- aim to complete the whole valuation process leading to an agreed schedule of contributions well within the deadline, to allow for slippage;
- allow time for considering actuarial and other relevant advice and reaching agreement with the employer on the preparation (or revision) of the statement of funding principles, any recovery plan and the schedule of contributions;<sup>♣</sup>
- take into account the timescales of advisers and any insurance company;
- take into account the actuary's data requirements;
- aim to have let the actuary have all necessary valuation data early in the process to enable initial calculations of solvency and technical provisions to be available for consideration by the trustees and discussion with the employer;
- bear in mind that audited scheme accounts are needed before the actuary can sign the valuation and certify the calculation of technical provisions;<sup>49</sup>
- allow time for drawing up and agreeing a recovery plan in case the valuation reveals a shortfall;<sup>♦</sup> and
- consider the possible need for a modification of future accrual of benefits which would require the employer to consult with affected members.<sup>50</sup>

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49 The audited scheme accounts must be obtained within seven months of the scheme year-end, under section 41(2)(a) of the Pensions Act 1995 (as amended) and regulation 2(1) of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 (SI 1996/1975) (as amended).

50 See paragraphs 109 to 113 for more details.

♣ Trustee/employer agreement

♦ Cross-border schemes

## Approaching the valuation process continued

- The action plan in practice*
35. The trustees should monitor progress against the action plan. They are responsible for the overall management of the scheme funding process. Management responsibilities include:
- prompting the relevant parties when they are required to undertake certain actions; and
  - checking that these actions are completed within the timeframe.
36. Trustees may delegate all or part of their management role, but they remain responsible for complying with their statutory obligations. If the management of the process is delegated, it is important that the trustees make arrangements to be told about any slippage that could affect the completion of all necessary work within the overall timeframe.
- Keeping records*
37. Trustees should keep a record of the steps they have taken to ensure adherence to both the action plan and the legislative requirements.
38. They should also keep clear records of the material matters they took into account during their deliberations upon the key scheme funding issues and their reasons for making these decisions. In addition to providing an audit trail, these records may save the trustees a considerable amount of time during future deliberations.
- Trustees and their actuary**
39. Trustees must obtain advice from their actuary before making certain funding decisions.<sup>51</sup>
- Scope of actuary's advice*
40. Trustees will need to discuss with the actuary the scope of the advice needed. This should enable trustees to identify the features or circumstances which are particular to their scheme and in relation to which actuarial advice would be desirable.
41. Trustees should ask their actuary to advise them on any matter which the actuary considers relevant in the circumstances even though it was not covered in the initial discussions and they did not specifically request advice on it.

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51 See section 230(1) and Guidance Note 49, 'Occupational Pension Schemes – Scheme funding matters on which advice of actuary must be obtained'.

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*Actuarial compliance reviews*

42. Actuaries must adhere to an ethical code (known as the professional conduct standards and which applies to all actuaries) as well as to technical standards (in the form of guidance notes applying to specific areas of actuarial work). In particular, actuaries appointed<sup>52</sup> by the trustees are required to have their written advice on scheme funding matters reviewed by another actuary.<sup>53</sup> This is called a ‘compliance review’.
43. There are two types of compliance review:
- one which takes place either before the advice is given or before it could be acted on. This form of review requires all such advice to be reviewed; or
  - one where all advice provided over a period of no more than six months is submitted for review after it has been provided. A representative sample of the advice will then be reviewed.
- The reviewing actuary under either type of review is required to have the necessary experience to have given the original advice.
44. The reviewing actuary is not required by the profession’s standards to be completely independent of the actuary who gives the advice. The degree of independence of the reviewing actuary can range from being the assistant to the actuary (who may have helped to prepare the advice), a colleague in the same office, a colleague in another office of the same firm, or an actuary in another firm.
45. The trustees should ask the actuary to explain the type of compliance review the actuary intends to adopt and the degree of independence of the reviewing actuary. The trustees should be satisfied that the actuary’s intended compliance review is appropriate for their scheme.

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52 See section 47(1)(b) of the Pensions Act 1995 (as amended).  
53 See Guidance Note 48, ‘Compliance Review: Pensions’.

## Approaching the valuation process continued

- Actuarial advice to the employer*
46. The employer will usually wish to understand the implications of the method and assumptions proposed by the trustees for calculating the technical provisions, and the consequences for any recovery plan and the schedule of contributions. Some employers may engage their own actuary to advise them. If an employer wants to avoid the cost of a separate actuarial appointment, he may wish to obtain calculations, advice or interpretation from the trustees' actuary. If the trustees' actuary does accept an engagement to advise the employer there is the possibility of a conflict of duty.
47. If their actuary intends to accept an arrangement to provide advice to the employer, the trustees should discuss with the actuary any potential implications. They should reach a clear understanding with their actuary as to how the actuary would recognise a conflict of duty and the steps which would be taken if such a conflict were to arise. It is reasonable for the trustees to insist that if the actuary could no longer continue to act for both parties, then the actuary would cease to act for the employer.
48. Where trustees have agreed to allow their actuary, or another actuary in the same firm, also to advise the employer they should not assume that any mediation role is being played by the actuary or the actuaries involved.
- Providing information to the actuary*
49. Trustees must make information available to the actuary about any matter which can reasonably be considered to be relevant to the formulation of the actuary's advice.<sup>54</sup>
- Advice to the trustees*
50. The trustees should appreciate that, although they are required to obtain the advice of the actuary before making certain decisions, they are not required to follow that advice. The actuary's advice should inform the trustees' deliberations on these matters but the responsibility for making decisions rests with the trustees.♣

54 See regulation 6(3) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (SI 1996/1715) (as amended).

♣ Trustee/employer agreement



51. The actuary is professionally responsible for giving the trustees comprehensible advice. In order to make effective use of this advice trustees need a full understanding of it and an appreciation of its possible implications for their scheme.
52. Trustees should consider how they may best achieve this understanding. It will usually involve the active questioning of the actuary. Face-to-face meetings are usually the best way to acquire this understanding quickly, effectively and efficiently as they:
- avoid the need for lengthy and protracted correspondence;
  - allow the actuary to assess whether the trustees have understood the advice and/or explanation provided and respond appropriately; and
  - allow the actuary to assist the trustees in articulating their questions and issues of concern.
- Further actuarial advice*
53. Trustees should be alert to circumstances in which they may need further actuarial advice. Such circumstances could arise during the trustees' discussions and negotiations with the employer when either the trustees become aware of new salient information about the employer or a counter-proposal is made.
- Keeping records*
54. Trustees should keep a record of the relevant instructions given to their actuary and the resulting advice obtained.
- Trustees and the employer**
- Consultation and agreement*
55. The trustees must obtain the employer's agreement to a number of matters.<sup>55♣</sup> To facilitate this agreement they should usually try to maintain an ongoing dialogue with the employer.
56. Where the rules of the scheme give the trustees the power to set the contribution rate without the agreement of the employer, the trustees are required only to consult the employer before making funding decisions. However, they should seek to obtain the employer's agreement.

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55  
♣ See section 229(1).  
Trustee/employer agreement

## Approaching the valuation process continued

- Assessing the employer's covenant*
57. It is essential for the trustees to form an objective assessment of the employer's financial position and prospects as well as his willingness to continue to fund the scheme's benefits (the employer's covenant). This will inform decisions on both the technical provisions and any recovery plan needed.
- Obtaining information about the employer's covenant*
58. In order to undertake such an assessment, the trustees will need to obtain information about the employer. Some of this information is likely to come directly from the employer.
59. The employer is obliged, on request, to provide the trustees with such information as they or their professional advisers reasonably require for the performance of their respective duties.<sup>56</sup> This includes information reasonably required to assess the employer's covenant.<sup>57</sup> Trustees should encourage employers to share the relevant information at an early stage. They should understand that some of the information provided by the employer may be confidential.
60. The trustees should also consider using commercially available services or other sources of information such as:
- rating agencies or credit scoring institutions;
  - credit specialist advisers;
  - reports of industry regulators (in the case of certain regulated industries);
  - information which may become available in connection with the risk-based element of the Pension Protection Fund's levy; or
  - any new developments in the credit advisory services market aimed at assisting the trustees to evaluate the employer's financial standing.
- Further information about the employer*
61. Trustees should be alert to information about the employer which is in the public domain and should also encourage the employer to keep them informed of matters which are likely to have a material impact upon the scheme.

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56 See regulation 6(1)(a) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (SI 1996/1715) (as amended).

57 See paragraph 57.

- Dealing with trustees' conflicts of duty or interest*
62. Some trustees may have a conflict of duty or interest. For example, trustees who are directors of the employing company may have a conflict between their duties as trustees and their duties to shareholders. And as most trustees are scheme members, the majority of whom are employed by the sponsoring employer, they may have personal conflicts of interest.<sup>58</sup> Trustees should remember that, when taking decisions as trustees, their other duties and interests must be set aside.
63. It is of the greatest importance that the existence of conflicts is recognised as soon as possible (preferably before any negotiations have been conducted). Where appropriate, trustees should ensure that they obtain legal advice as to how to manage these conflicts.
- Negotiating with the employer*
64. Agreement may often be reached without the need for negotiation. However, if negotiation proves necessary, trustees should be well prepared and be willing to work with the employer to reach a common agreement.
- Alternative dispute resolution (ADR)**
65. Trustees and sponsoring employers may wish to consider using a professional ADR service (examples of which are mediation and non-binding arbitration) where they are unable to reach agreement. They should weigh up the costs of doing so against the likely benefits, in the light of the prospect of success.♣
66. ADR may be appropriate where trustees and the employer have, after extensive discussions, come close to agreement but some sticking points remain.
67. In order to get the best out of ADR, both parties will find it helpful if, in advance, they are able to:
- identify the areas of disagreement;
  - identify their reasons for not being able to reach agreement; and
  - agree on a discussion timetable.
68. The trustees and the employer should seek to enter ADR early enough so that the scheme funding process can be completed within the overall deadline, though ADR can often be quickly arranged and swiftly carried out.

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58 Section 39 of the Pensions Act 1995 (as amended) specifically permits member trustees to exercise powers which benefit, or may benefit, them as members.  
♣ Trustee/employer agreement

## Meeting the key statutory obligations

### Statement of funding principles

#### *Preparation, review and revision*

69. The trustees must prepare a statement of funding principles within fifteen months (eighteen months for some transitional cases) of the effective date of the scheme's first actuarial valuation under Part 3. They must subsequently review and if necessary revise it within the same deadline after the effective date of each subsequent valuation.<sup>59</sup> However, they may review and revise it at other times.<sup>60</sup>

#### *Dealing with a shortfall*

70. Where the trustees have made decisions about the manner and period within which to eliminate a shortfall then these decisions must also be recorded in the statement of funding principles.<sup>61</sup> The trustees should also record all of the assumptions used.

#### *Combining with the statement of investment principles*

71. The trustees may wish to prepare a single document combining the statement of funding principles with the statement of investment principles.<sup>62</sup> They should ensure that the matters relating to each statement satisfy the appropriate requirements for employer consultation (in the case of the investment statement) and agreement (in the case of the funding statement).

### Calculation of technical provisions – method

72. Trustees must choose an accrued benefits funding method for calculating the scheme's technical provisions.<sup>63</sup> Before doing so they must obtain actuarial advice and must reach agreement with the employer.<sup>64</sup>♣

#### *Accrued benefits funding methods*

73. As its name suggests, under an accrued benefits funding method, a value is placed on benefits accrued to date. At the same time, a consistent contribution rate should be determined to meet future accrual of benefits for active members.

59 See regulation 6(3)(a).

60 See paragraph 137 to 141.

61 See section 223(2).

62 The statement of investment principles is required under section 35 of the Pensions Act 1995 (as amended).

63 See regulation 5(2).

64 See sections 230(1) and 229(1) respectively.

♣ Trustee/employer agreement

74. An important distinguishing feature of the four accrued benefits funding methods currently recognised by the actuarial profession<sup>65</sup> is the treatment of pay increases for active members. The smaller the proportion of active members in the scheme, the less significant the differences between the various methods will be to the overall valuation result.

*Factors to consider*

75. Trustees must take advice from their actuary on the differences between the available methods in relation to their scheme.<sup>66</sup> The following factors should be covered by that advice and discussed with the employer:

- the relationship between the technical provisions required under a particular funding method and the future contributions (if any) needed to support them, taking into account expected future pay increases for active members;
- how that funding method might be expected to affect the future contributions over the lifetime of the scheme;
- the significance of the relative liabilities in respect of pensioner, deferred and active members as well as the age profile of the membership;
- the ability and willingness of the employer to make advance provision for future events (for example, the allowance made today for future pay growth) in the technical provisions; and
- the likely number of new entrants to the scheme in the future.

**Calculation of technical provisions – assumptions**

76. It is the trustees' responsibility to choose which assumptions are to be adopted for the calculation of the scheme's technical provisions. This is another matter on which they must take advice from their actuary and reach agreement with the employer.<sup>67</sup>♣

77. Whilst the future is unknown, for funding purposes assumptions need to be made about the course of events. It is a legislative requirement that trustees must follow the principles set out in legislation with regard to 'prudence' when choosing the actuarial assumptions to be used in the calculation.<sup>68</sup>

78. The decisions made will not only affect the technical provisions, but will also have an impact on the level of future contributions required.

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65 See Guidance Note 26, 'Pension Fund Terminology'.

66 See section 230(1)(a).

67 See sections 230(1) and 229(1) respectively.

68 See regulations 5(3)(a) and 5(4).

♣ Trustee/employer agreement

## Meeting the key statutory obligations continued

79. *Advice on assumptions*
- The following matters relating to the assumptions should be covered by actuarial advice and discussed with the employer:
- a range of values or options for each assumption. When considering these, the trustees should ensure they understand the evidence for, and rationale behind, the choices put forward;
  - sensitive assumptions, where even small deviations in the experience from the assumed values have a significant impact on the adequacy of the technical provisions;
  - the current price of UK government securities and the information this provides about the expected return on investments which are low risk in relation to the liabilities;
  - relevant economic and financial factors such as price and wage inflation, and the expected returns on, and risks associated with, asset classes other than UK government securities;
  - the trustees' investment policy and the extent to which the expected returns on, and the risks associated with, actual investments held should be reflected in assumptions about investment returns;
  - factors particular to the employer, or the employer's industry, affecting matters such as pay increases, rate of withdrawal from membership and recruitment, etc;
  - for schemes open to new members, the implications of those assumptions as to age, sex and number of new joiners for future contributions; and
  - the effect that changes to economic conditions might have on the relative levels of funding and solvency.
80. *Mortality*
- Particular attention should be paid to assumptions about future mortality. Here the experience is of a sustained trend in one direction, that of longer life expectancy (ie decreasing mortality rates). Trustees should consider with their actuary the latest available relevant data on likely future mortality rates.
81. In their application to a particular scheme, it might be appropriate to adjust standard mortality tables to reflect scheme, employer or geographic factors where evidence exists to support this. Consideration should be given as to the likely persistence of these differences in the future.

- Estimated scheme solvency*
82. When considering the assumptions to be adopted for the calculation of the technical provisions, trustees should discuss with their actuary the relationship between those assumptions (particularly investment return and mortality) and the assumptions which the actuary will use in the estimate of the scheme's solvency (which must be included in the actuarial valuation).<sup>69</sup>
83. The actuary's estimate of the solvency position, and the assumptions underlying the calculations, are useful reference points for trustees and the employer when considering the adequacy of the technical provisions.
- Prudence of assumptions taken together*
84. Trustees should choose individual assumptions with a level of prudence consistent with the overall confidence they want to have that the resulting technical provisions will prove adequate to pay benefits as they fall due.
85. The trustees must consider whether, and if so to what extent, account should be taken of a margin for adverse deviation when choosing prudent economic and actuarial assumptions.<sup>70</sup> To inform this choice trustees should discuss with their actuary both the range of potential values and the likelihood of their being experienced so as to determine the appropriate margin (if any) to take over best estimate values.
86. Whilst technical provisions should represent a prudent reserve to hold against a scheme's future liabilities, trustees are not obliged to attempt to eliminate all risk that they will fail to be sufficient. In particular, legislation does not require technical provisions to be set at the level needed to buy out accrued liabilities with an insurance company.
- Pension Protection Fund levy valuation*
87. Trustees should also be aware of the separate valuation for Pension Protection Fund levy calculation purposes.<sup>71</sup> This indicates the ability of the scheme to provide benefits in excess of the Pension Protection Fund compensation level in the event of employer insolvency. This valuation and the stipulated assumptions will provide the trustees with further useful points of reference when considering the adequacy of the technical provisions.<sup>72</sup>

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69 See regulation 7(4)(b).

70 See regulation 5(4)(a).

71 See section 179.

72 For further details the Pension Protection Fund's address is Knollys House, 17 Addiscombe Road, Croydon, Surrey CR0 6SR and the website is [www.pensionprotectionfund.org.uk](http://www.pensionprotectionfund.org.uk).

## Meeting the key statutory obligations continued

### *Stochastic modelling techniques*

88. One problem inherent in the conventional actuarial valuation which carries over to the calculation of technical provisions is that only a single answer emerges, which is the fund required if all assumptions are precisely borne out by experience. Most assumptions can be regarded as one point in a range of possibilities.
89. To illustrate this, stochastic modelling techniques have been developed, often seen in the form of ‘asset-liability’ models, which might assist trustees when assessing the prudence of either individual assumptions or the overall calculation of technical provisions. The main characteristics of these techniques are:
- they attempt to model the course of events as they might emerge based on randomly generated simulations of the future in line with an economic model;
  - they result in a range of outcomes with probabilities attached; and
  - they thereby allow a view to be formed, based on the economic model underlying the valuation, of what the likelihood is of any particular level of technical provisions being sufficient to meet benefits as they fall due.
90. However, if trustees use these techniques, they should be aware of their limitations, including the following:
- the results, whilst generated by a random process, nevertheless depend on how the many variables underlying the model are associated with each other, their mean values and their assumed probability distributions;
  - models are usually calibrated to past events so their ability to generate outcomes not experienced in the past may be limited;
  - there is a danger that results may take on a credibility in the eyes of trustees and others which is unwarranted; and
  - they are not meant as a predictive tool, rather they are illustrative of possible outcomes.



91. *Other illustrations of variability*  
The use of stochastic modelling techniques may not be appropriate for all schemes, and trustees should discuss with their actuary possible approaches to illustrating variability. A simpler and less costly analysis could take the form of carrying out the valuation on a few different sets of assumptions simply to illustrate the width of the potential outcome range and the sensitivity of results to particular assumptions. Discussions with the actuary would centre on the choice of appropriate sets of assumptions to be used and interpretation of the results.
92. *Equity out-performance*  
Prudent assumptions could allow for some degree of out-performance of scheme assets relative to bonds depending on the specific circumstances of the scheme. In particular, the trustees should consider the scheme's investment policy and the ability of the employer to cope with the financial consequences of assumptions not being borne out by experience.
93. *Changes in the method or the assumptions*  
At subsequent valuations, trustees may choose a different method or different assumptions to those previously adopted where justified by a change of legal, demographic or economic circumstances.<sup>73</sup> These circumstances can be general, applicable to all schemes, or particular, applicable to a specific scheme. For example, a change in the trustees' assessment of the strength of the employer's covenant<sup>74</sup> could justify a change in relevant assumptions.
94. Trustees should keep records of the reasons for making any such changes.
- The actuarial valuation**
95. *Concerns about the quality of valuation data*  
The trustees should discuss with their actuary any concerns they or their actuary have over the quality of the valuation data provided.

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73 See regulation 5(4)(d).  
74 See paragraph 57.

## Meeting the key statutory obligations continued

- Insurance policies*
96. Where the actuary includes, in the valuation, the value of any insurance policies held as assets of the scheme, an explanation of how this value was arrived at must also be included.<sup>75</sup> The trustees should discuss the explanation given by the actuary to establish whether there are any implications for the scheme.
- Certification of the calculation of the technical provisions*
97. The actuarial valuation must incorporate certification by the actuary of the calculation of the technical provisions.<sup>76</sup> Trustees should be aware that the actuary is only certifying that the calculation is made in accordance with the regulations. These regulations require the trustees to choose the method and assumptions. The actuary is not passing an opinion on the trustees' choice of method and assumptions.
- Scheme solvency*
98. The valuation must also include the actuary's estimate of the scheme's solvency.<sup>77</sup> The trustees should discuss the approach used by the actuary to determine this estimate, to establish whether there are any implications for the scheme.
- The recovery plan**
99. Under the statutory funding objective, where there is a shortfall at the effective date of the actuarial valuation, the trustees must aim to achieve full funding in relation to the technical provisions.<sup>78</sup> ♦
- The recovery plan and the statement of funding principles*
100. Any decisions made about the period within which, and manner in which, a funding shortfall is to be eliminated must be set out in the statement of funding principles.<sup>79</sup>
- Matters to take into account when preparing a recovery plan*
101. Trustees should aim for any shortfall to be eliminated as quickly as the employer can reasonably afford. ♥ What is possible and reasonable, however, will depend on the trustees' assessment of the employer's covenant.<sup>80</sup>

75 See regulation 7(3).

76 See regulation 7(4)(a).

77 See regulation 7(4)(b).

78 See section 222(1) and 226(2)(a).

79 See section 223(2)(b).

80 See paragraph 57.

♦ Cross-border schemes

♥ Shared-cost schemes

102. When considering the structure of a recovery plan and the contributions required, the trustees should take into account the following matters:
- the employer's business plans and the likely effect any potential recovery plan would have on the future viability of the employer;
  - the scheme's membership profile. A longer recovery period may be more appropriate in a scheme where most members have many years to go before retirement than in one where the great majority are already in receipt of a pension;
  - the ability of the trustees to pursue an employer to make good a deficiency in the event of a scheme wind-up. If the trustees might have difficulty pursuing an employer to recover a debt (for example, if the employer or its parent is based overseas), they should usually seek a shorter recovery period;
  - the employer's expenditure commitments. For example, some 'back-end loading' might be acceptable when the employer's payments towards redeeming a commercial mortgage are due to end in the near future or a vital one-off investment in new equipment is being made in the next year;
  - reports of industry regulators (in the case of certain regulated industries);
  - the value of any contingent security provided by the employer bearing in mind both the term and enforceability. A longer recovery period or one structured with a degree of back-end loading may be appropriate where security has been provided in the event of insolvency;
  - the likely benefits available to pensioners and non-pensioners should the employer be subject to an insolvency event in the short term;
  - whether there are any impending member movements which would have a potentially significant effect on funding, such as major retirements or bulk transfers (in or out);
  - the level and nature of any employer-related investment;
  - the effect of the assumptions underlying the recovery plan not being borne out by experience; and
  - the anticipated level of the risk-based element of the Pension Protection Fund levy, year on year, over the course of the recovery period and how this is met by the employer.

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## Meeting the key statutory obligations continued

103. *Assumptions*  
The recovery plan should also include the assumptions underlying the elimination of the shortfall. The trustees should always bear in mind that the plan must be appropriate for the scheme.<sup>81</sup>

104. *Contingent security*  
Contingent security may take a variety of forms, and trustees will need to consider taking appropriate legal and other advice in relation to its role in the structure of recovery periods. Trustees should be mindful of the value of contingent security for their scheme considering in particular both term and enforceability. Some examples are given below which outline their principal features and possible relevance to recovery plans:

- a letter of credit issued by a third party (a bank or insurance company), or other form of insolvency insurance. This is an arrangement to pay a sum to the scheme in the event of the employer's insolvency. Typically such arrangements provide cover for a limited period with no guarantee of renewability. Such an arrangement may enable trustees to accept a plan with a degree of back-end loading;
- a guarantee from another company within the same group. This is an arrangement to pay a sum to the scheme in the event of the employer's insolvency. Typically such arrangements are for a limited period and trustees should be satisfied that over this period the guarantor can cover the sum guaranteed;
- securitised assets. This is normally an arrangement to ring-fence securitised assets in a special purpose vehicle. Some or all of these assets would pass to the scheme in the event of the employer's insolvency; or
- an escrow account. This is an arrangement whereby the employer pays funds into an account which would pass to the pension scheme under certain conditions, otherwise being returned to the employer. The conditions for paying escrow account monies into the scheme might typically relate to the funding position revealed by the next actuarial valuation.

However, the above list is not intended to be exhaustive and trustees need to be alert to developments in this area.

81 See section 226(3).

- Eliminating half the shortfall*
105. A recovery plan must include the date by when the shortfall is expected to be eliminated.<sup>82</sup> The recovery plan should also include the date by when the amount of those additional contributions to be made is half the amount of all the contributions due under the plan. This will provide the trustees with an understanding of the plan's structure. Where a recovery plan is less than one year in length, trustees need not include this additional information.
- Revision of an existing recovery plan – after an actuarial valuation**
106. Trustees should not normally agree to re-spread a shortfall at subsequent valuations where a recovery plan is already in place and requires revision. This is because repeated re-spreading would result in the shortfall never being eliminated.
107. However, in order to avoid more than one change in contribution level in any one year, the trustees may carry out a limited amount of re-spreading when combining contributions from an existing recovery plan with additional contributions needed under a revised plan.
108. As well as those factors set out in paragraph 102 they should also adhere to the following further principles when revising a recovery plan:
- if there is no longer a shortfall at the current valuation, the existing recovery plan may be discontinued without replacement;
  - where a shortfall is less than the value of outstanding future additional contributions under the current recovery plan, either the current rate of contributions can continue for a shorter period or reduced contributions can be paid over the unexpired portion of the current recovery plan; and
  - where a shortfall is more than the value of outstanding future additional contributions under the current recovery plan, the current rate of contributions should continue and the additional shortfall may be eliminated over an agreed period which must be recorded in the statement of funding principles.<sup>83</sup>

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82 See section 226(2)(b).  
83 See section 223(2)(b).

## Meeting the key statutory obligations continued

### **Modifying the future accrual of benefits**

#### *The power to modify*

109. Under Part 3 the trustees may, with the employer's agreement, modify the scheme's future accrual of benefits if agreement with the employer on one or more scheme funding matters cannot otherwise be obtained.<sup>84</sup>

110. The power to modify in this particular situation is an overriding permissive power provided by Part 3, notwithstanding the rules of the scheme. Some trustees may have a more general power to modify provided by scheme rules, and this is unaffected by Part 3.

#### *Consultation*

111. Statutory consultation requirements will apply where employers propose to make certain amendments to the pension arrangements of affected members. (Affected members are any active or prospective members of the scheme likely to be affected by the amendment.) Modification of future accrual of benefits under the scheme funding legislation is one of those amendments.<sup>85</sup>

112. Sometimes the consultation on the employer's proposals for modification of future accrual of benefit may take place before valuation results have been finalised. In such cases, trustees should provide the employer with the relevant funding information, such as provisional illustration results. This will enable the employer to provide the affected members with the information in order to make the consultation meaningful.

#### *Timing*

113. The fact that a modification of the scheme needs to be made before agreement on funding matters can be reached with the employer will not alter the overall deadline. Accordingly, trustees should be alert to any possible need for a scheme modification so that sufficient time is left to carry out consultation (which must be at least two months)<sup>86</sup> and meet the scheme funding requirements within the required timescale.

84 See section 229(1).

85 See the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations 2006 due to come into force in April 2006.

86 See the Occupational and Personal Pension Schemes (Consultation by Employers) Regulations 2006 due to come into force in April 2006.

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### Schedule of contributions

114. The trustees must put in place a schedule of contributions.<sup>87</sup> It must set out the rates of the contributions payable to the scheme and the dates by when those contributions should be paid.
115. Before it becomes effective, the schedule must be certified by the actuary.<sup>88</sup> The certificate allows for calculations as at the effective date of the valuation to suffice. The trustees should ask the actuary to explain the form of certificate he is proposing to use and why.
116. The schedule will enable the trustees to monitor whether the contributions due have been paid. The trustees are required to report certain failures by the employer to pay contributions.<sup>89</sup>

#### *Principles for preparing or revising a schedule of contributions*

117. The trustees should apply the following principles when preparing or revising the schedule of contributions:
- it should be sufficiently clear to enable them to monitor payments;
  - it should be drafted so as to avoid the need to refer to other scheme documents. Where there are many different rates in force, rather than refer to ‘contributions in accordance with the rules’, the schedule should set out those rates. However, where it refers to contributions expressed as percentages of pay, it will normally be necessary for the employer and the trustees to have access to the pensionable payroll relevant to each payment in order to determine the monetary amount due. Thus the schedule will not always be the only document needed;
  - it should avoid showing any due date for member contributions later than the nineteenth day of the month following the month of deduction from pay. This is because, to comply with the legislation, this is the latest date by when the employer must pay these contributions to the scheme;<sup>90</sup> and
  - it should not refer to the contributions covering individual augmentations or general benefit improvements, unless these were planned and due to be paid when the schedule was certified.

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87 See section 227(1).

88 See section 227(5) and regulation 10(6), Schedule 1 and paragraph 12 of Schedule 2.

89 See section 228(2) and regulation 12, and see also paragraphs 161 to 167.

90 See regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (SI 1996/1715) (as amended).

## Meeting the key statutory obligations continued

- Contents of the schedule*
118. A schedule of contributions must separately identify:<sup>91</sup>
- the rates and due dates of each employer's contributions;
  - the rates and due dates of the active members' contributions;
  - the additional contributions and their due dates under a recovery plan to make good a shortfall; and
  - any contributions (and their due dates) explicitly earmarked to cover expenses likely to fall due over the course of the schedule. However, where it is the practice for administrative expenses to be incorporated into the employer's normal contribution rate to cover ongoing future accrual of benefit, these need not be shown separately on the schedule.
119. Items of administrative expenditure such as professional fees which are due to be met directly by the employer need not appear on the schedule. Where this is the case the trustees should include, in the schedule, a statement covering this point
- Treatment of the Pension Protection Fund levy*
120. Trustees should treat the Pension Protection Fund levy as an annual expense item. Even where this expense item is included in the employer's overall contribution rate, the schedule of contributions should include a note to this effect indicating the assumed annual amount incorporated for this purpose.
- The schedule period and the recovery plan*
121. The schedule of contributions must cover the period of five years from the date of certification by the actuary, or the recovery plan period if it is longer.<sup>92</sup>
122. In respect of the amounts and due dates of any contributions due to be paid beyond five years trustees should, with a view to simplifying presentation, consider aggregating payments in each subsequent year, specifying an end-of-year date for payment.
123. Trustees may, if they wish, define contributions as an additional percentage of pensionable pay.♥ If they have doubts as to the stability of pensionable pay or if aggregate pensionable pay is small compared to the funding shortfall, they should express these additional contributions as monetary amounts. These monetary amounts can still be linked to a price or pay index or to the employer's pay increases.

91 See section 227(2) and regulations 10(3) and 10(4).

92 See regulation 10(2).

♥ Shared-cost schemes



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*Monitoring contributions*

124. Trustees should ensure there is a robust procedure in place for monitoring the receipt of contributions. To do so they will usually need the relevant pensionable payrolls of all of the participating employers in the scheme. They may wish to obtain independent verification from the employer's auditor that the payroll is relevant, complete and correct, or make other checks to verify it.
125. Trustees need to investigate any apparent employer failure to adhere to the schedule of contributions. Where a contribution failure is identified, trustees should normally discuss it with the employer as soon as practicable with a view to finding out the cause of the failure, rectifying any underpayment and taking steps to avoid a recurrence in the future. The more serious the contribution failure appears, the more urgent the investigation should be.
126. Following the trustees' investigation they may be required to make a report to the Pensions Regulator.<sup>93</sup>

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93 See section 228(2) and also paragraphs 161 to 167.

## Between actuarial valuations

### The actuarial report

127. If an actuarial valuation is not commissioned by the trustees with an effective date within one year of the effective date of the previous valuation, they must commission an actuarial report.<sup>94</sup>♣♦

#### *Effective dates of actuarial reports*

128. The effective date of an actuarial report must be no later than one year from that of the previous actuarial valuation or report.<sup>95</sup> Actuarial reports for the intervening years between full actuarial valuations must give an update of the funding position since the last valuation.<sup>96</sup> Trustees should, therefore, generally commission actuarial reports as at those anniversaries of the effective date of the last actuarial valuation for the years when they do not obtain an actuarial valuation.♣

#### *Relevant factors*

129. The purpose of the actuarial report is to provide an approximate update of the funding position of the scheme. The actuary can use information about the scheme that is readily available, together with relevant general economic and financial information, to update the calculation of the technical provisions and the market value of scheme assets. An actuarial report should reflect any significant changes to the scheme's liabilities including:
- additional accrual of benefits by active members, including new joiners;
  - any material changes to benefits made by the exercise of discretions or by way of augmentations; and
  - any material changes brought about by transfers into or out of the scheme.
130. Actuarial reports prepared using a quantitative or a purely narrative approach may be appropriate; for example, where the funding position is not expected to have changed markedly since the previous valuation or report, a purely narrative approach may be acceptable to the trustees. In either case, trustees should question their actuary to understand the factors the actuary has taken into account in preparing the report.

94 See section 224(1)(a).

95 See section 224(3)(b).

96 See section 224(2)(c) and regulation 7(5).

♣ Schemes with fewer than 100 members

♦ Cross-border schemes

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### Changes in circumstances

131. Trustees should be alert to the circumstances which may lead them to commission an early valuation or review and if necessary revise the funding documents.
132. In the light of this ongoing requirement trustees may wish to instruct their actuary and/or other advisers to alert them to situations which, in the relevant adviser's opinion, would lead them to review any of these scheme funding documents or consider commissioning an early valuation.
- Trustees' undertaking to the actuary*
133. As a condition of accepting an appointment the actuary is professionally required to ask the trustees to provide an undertaking to notify the actuary should certain events take place.<sup>97</sup> Trustees have an ongoing obligation under the undertaking to inform the actuary about those events specified in it. These matters will usually be dependent upon the precise benefit structure and size of the scheme. For example:
- in a small scheme the events might relate to when just one highly paid member either joins or leaves. This is because this single member's benefits may represent a significant proportion of the scheme's liabilities; or
  - the undertaking might relate to larger-than-expected salary increases to older members. If those members were long-serving this can have a significant adverse impact on funding levels.

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97 See paragraph 2.5 of Guidance Note 29, 'Occupational Pension Schemes - Advisers to the Trustees or a Participating Employer'.

## Between actuarial valuations continued

### Early actuarial valuations

#### *Circumstances*

134. Where trustees normally obtain triennial valuations, they should consider obtaining one for an intervening year instead of an actuarial report wherever, after taking advice from their actuary, it seems to them that events have made it unsafe to continue to rely on the results of the previous valuation as the basis for the current level of contributions.
135. An early valuation might be appropriate when:
- the actuary advises that the present recovery plan may be significantly inadequate. This may be as a result of the actuary's preliminary work in preparation of an actuarial report or of a review of the recovery plan itself;
  - an employer ceases to participate in a multi-employer scheme, particularly when a recovery plan is in place;
  - a bulk transfer of assets and liabilities, either into or out of the scheme, takes place;
  - there is a significant fall in the market value of scheme assets;
  - significant benefit improvements or augmentations are granted; or
  - member movements occur, not necessarily involving augmentations, but which involve significantly more members than anticipated on the valuation assumptions taking advantage of a relatively expensive option (such as is sometimes the case with early retirement terms).

#### *Consulting the employer*

136. The trustees should consult the employer before going ahead with a valuation outside the scheme's normal cycle. This will provide the employer with the opportunity of responding to circumstances by, for example, agreeing to an increase in the level of contributions which is satisfactory to the trustees, pending the next scheduled valuation.

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## **Review and revision of the statement of funding principles, a recovery plan and the schedule of contributions**

### *Circumstances*

137. Trustees may from time to time review and if necessary revise the statement of funding principles, any recovery plan and the schedule of contributions other than as part of the valuation process.<sup>98</sup> However, where trustees are advised that the impact of events on the funding level of the scheme is likely to be material, it will usually be appropriate to commission an early valuation and then review and if necessary revise any of the funding documents.
138. Trustees should consider reviewing and if necessary revising these funding documents where there is a significant improvement or decline in the employer's covenant.<sup>99</sup>
139. They should also consider reviewing and if necessary revising the statement of funding principles if there is a change in scheme rules affecting a matter included in the statement.

### *Actuarial certification of the revised schedule*

140. A revised schedule of contributions must be certified by the actuary before it comes into effect.<sup>100</sup> Trustees should discuss with the actuary the form of certificate being considered and whether this will require calculations as at the date of the certification of the revision or whether a calculation based on the effective date of the last valuation will suffice.

### *Circumstances where a revision may not be required*

141. Sometimes, an employer may want to pay off a shortfall more quickly than originally planned. Rather than revising the existing recovery plan and schedule before the next valuation, the trustees may wish to treat contributions over and above the documented requirements as payments in advance of those set out in the schedule. They should ensure that the scheme auditor is consulted about and approves any proposed arrangement of this kind. The arrangement would need to state clearly exactly which scheduled payments were being treated as being made in advance.

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98 See paragraphs 164 and 165 for reviews after the Pensions Regulator has exercised one of its Part 3 powers.

99 See paragraph 57.

100 See section 227(5) and regulation 10(6), Schedule 1 and paragraph 12 of Schedule 2.

## Providing information to members: the summary funding statement

- Issuing the statement**
142. A summary funding statement must be issued to all scheme members and beneficiaries within a reasonable period following the date by when the trustees must receive each actuarial valuation or actuarial report.<sup>101</sup> Prior to a scheme's first valuation under Part 3, summary funding statements must be issued annually with the first statement being provided no later than 21 September 2006.<sup>102</sup>
143. The statement does not have to be sent to a deferred member or pension credit member whose present address is unknown and if correspondence sent to that member's last known address has been returned.<sup>103</sup>
- Reasonable period**
144. Drafting of the summary funding statement should be treated as a standard component of the actuarial valuation or actuarial report process. An undue delay in issuing the statement to members should thereby be avoidable. A reasonable period for providing the statement will vary from scheme to scheme. However, the Pensions Regulator considers that the statement should normally be provided within three months from the date by when valuations or reports must be obtained.
- Principles to be applied when drafting the statement**
145. Trustees must include in the statement an explanation of any change in the scheme's funding position.<sup>104</sup> They should be able to produce this explanation using relevant and readily available information, such as the most recent actuarial valuation, the latest audited accounts and the last actuarial report. Until the trustees have received the first valuation under Part 3, they could use information such as the last MFR valuation and any subsequent certifications of the schedule of contributions, together with the annual report and accounts for the scheme. Trustees should consult with the actuary when preparing this explanation. It is not anticipated that preparing this explanation will entail significant extra work on the actuary's part.
146. The statement will be the members' principal source of information on funding matters. Therefore, trustees should make the document clear and comprehensible, avoiding any undefined jargon.

101 See regulation 5(12ZA) of, and Schedule 2 to, the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (SI 1996/1655) (as amended) and as inserted by paragraph 2 of Schedule 3.

102 See paragraph 3 of Schedule 3 which also includes a modification for schemes with fewer than 100 members.

103 An 'excluded person'; see regulation 1(2) of the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (SI 1996/1655) (as amended).

104 See regulation 5(12ZA) of, and Schedule 2 to, the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (SI 1996/1655) (as amended) and as inserted by paragraph 2 of Schedule 3 and see also paragraph 3 of Schedule 3.

### Contents of the statement

147. Trustees must include certain matters in the statement.<sup>105</sup> They should also consider including:
- an introductory paragraph explaining that the statement's purpose is to give members information about the funding of the scheme;
  - an explanation as to the operation of a defined benefit scheme, i.e. that there is one common fund, as members often think that their own pension is in an individual account;
  - a suggestion that if, as a result of its funding position, any members are considering leaving the scheme they should consider obtaining professional financial advice before taking this step;
  - a reminder to members of the need to inform the trustees of any change of address;
  - a summary of the scheme's investment policy;
  - a reference to the protection offered by the Pension Protection Fund; and
  - a list of the funding and related documents available on request.<sup>106</sup>

### Statement due before first Part 3 valuation

148. Where a statement is due before the first Part 3 actuarial valuation has been received, the trustees must include certain matters in it.<sup>107</sup> They should also consider including:
- the date when the trustees expect to provide the first statement based on the results of a Part 3 actuarial valuation; and
  - those matters which they should also consider including in the first statement due after the first valuation under Part 3.<sup>108</sup>

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105 See regulation 5(12ZA) of, and Schedule 2 to, the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (SI 1996/1655) (as amended) as inserted by paragraph 2 of Schedule 3.  
106 See regulation 7 of the Occupational Pension Scheme (Disclosure of information) Regulations 1996 (SI 1996/1655) (as amended) which has been amended by paragraph 2 of Schedule 3.  
107 See paragraph 3 of Schedule 3.  
108 See paragraph 147.

## Providing information to the Pensions Regulator and reasonable periods

149. The code gives guidance on what constitutes a reasonable period, most of which is set out in this section. The appropriate period will be dependent upon circumstances and may well be shorter or longer than the period stated in the following guidance.

### **Recovery plans and schedules of contributions**

#### *Preparation or revision after a valuation*

150. Where, following an actuarial valuation, trustees must prepare (or if one already exists, review and if necessary revise) a recovery plan,<sup>◆</sup> they must send the (newly prepared or revised) plan to the Pensions Regulator within a reasonable period.<sup>109</sup>

151. In the same circumstances, trustees must prepare (or if it already exists, review and if necessary revise) the schedule of contributions and send the (newly prepared or revised) schedule to the Pensions Regulator within a reasonable period.<sup>110</sup>

#### *Revisions between valuations*

152. Trustees must also send a copy of a recovery plan that has been revised other than as a result of an actuarial valuation to the Pensions Regulator within a reasonable period of its revision.<sup>111</sup> They must provide an explanation of the reasons for the plan's revision.<sup>112</sup>

153. They must also send the corresponding revised schedule of contributions to the Pensions Regulator within a reasonable period of its revision.

#### *Reasonable periods for sending recovery plan and schedule of contributions*

154. The reasonable period for sending the schedule of contributions to the Pensions Regulator is ten working days from the date the schedule is certified by the actuary. Any revised or newly prepared recovery plan should be sent at the same time.

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109 See section 226(6).

110 See section 227(7).

111 See section 226(6).

112 See regulation 8(7)(b).

◆ Cross-border schemes



155. *Information to accompany recovery plans*
- Trustees must include with a recovery plan sent to the Pensions Regulator (other than one revised between valuations) a summary of the actuarial valuation ('valuation summary').<sup>113</sup> This valuation summary should include:
- the value placed on assets;
  - the technical provisions, separately identifying the values placed on pensions in payment, benefits in respect of deferred pensioners and benefits in respect of active members;
  - the estimated cost of securing accrued benefits with an insurance company. This estimate should show separately those costs for pensions in payment, benefits in respect of deferred pensioners and benefits in respect of active members, of securing accrued benefits with an insurance company (or alternative approach to solvency adopted by the actuary<sup>114</sup>), together with the additional costs of wind-up;
  - the method adopted for calculating the technical provisions; and
  - the principal assumptions on which the calculation of technical provisions has been based, including: investment returns; pension increases pre- and post-retirement; pensionable pay increases; the mortality assumptions made at normal pension age for each sex as at the valuation's effective date; and the mortality assumptions projected for those retiring twenty years after that date.

### **Actuary unable to provide certificates**

#### *Requirement*

156. Actuaries who are unable to provide the required certification of the calculation of the technical provisions<sup>115</sup> or of the adequacy of the schedule of contributions<sup>116</sup> must report the matter in writing to the Pensions Regulator within a reasonable period.

#### *Reasonable period for actuary to report failure to certify*

157. The reasonable period for reporting a failure to certify is ten working days from the relevant deadline.

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113 See regulation 8(7)(a).  
114 See regulation 7(6).  
115 See section 225(3).  
116 See section 227(9).

## Providing information to the Pensions Regulator and reasonable periods continued

### Trustees and employer unable to agree

#### *Requirement*

158. If trustees are unable to reach agreement with the employer where required to do so, they must report the failure in writing to the Pensions Regulator within a reasonable period.<sup>117♣</sup>

#### *Reasonable period for trustees to report failure to agree*

159. The reasonable period for reporting a failure to agree is ten working days from the relevant deadline.

#### *Further information to be supplied when there is no agreement*

160. Where trustees are reporting to the Pensions Regulator in respect of their failure to agree, they should include:

- details of all matters on which they have been unable to agree;
- their reasons for not being able to agree;
- the steps they have taken to reach agreement and any such steps still being taken;
- whether they have made use of, or have considered but ruled out making use of, a professional alternative dispute resolution service; and
- whether, and if so when, they believe agreement may be possible given more time.

### Contribution failure

#### *Whether to report*

161. Trustees must report to the Pensions Regulator when they have reasonable cause to believe that late or non-payment of a contribution due under the schedule of contributions is likely to be materially significant to the Pensions Regulator's exercise of its functions.<sup>118</sup>

162. Trustees must satisfy themselves that a contributions failure has taken place<sup>119</sup> and in doing so, they should take into account:

- legitimate agreed payments made directly by the employer for scheme purposes, such as to pay pensions;
- contributions paid directly to a scheme insurer or investment manager; and
- additional voluntary contributions included with the employer's overall payment.

117 See section 229(5).

118 See section 228(2) but also see section 49(8) and 49(9)(b) of the Pensions Act 1995 (as amended) relating to the non-payment of contributions deducted from an active member's earnings.

119 See sections 228(1) and 228(2).

♣ Trustee/employer agreement

163. *Material significance*  
The following situations are likely to be of material significance to the Pensions Regulator:
- the employer appears to be involved in the fraudulent evasion of the obligation to pay members' pension deductions;<sup>120</sup>
  - there is reasonable cause to believe a form of dishonesty is involved other than the fraudulent evasion of the obligation to pay members' pension deductions;
  - there is an immediate risk to members' benefits such as pensions in payment normally met by the employer's contribution;
  - contributions remain unpaid ninety calendar days after the due date (unless it is a one-off or infrequent administrative error, which is discovered after the ninety days, and which is already corrected when found or is thereafter corrected as soon as is reasonably practicable);
  - the employer appears not to have adequate procedures or systems in place to ensure the normal, correct and timely payment of contributions and appears not to be taking adequate steps to remedy the situation; or
  - the trustees conclude, after discussions with the employer, that there is no early prospect of contribution underpayments being corrected, for example because of the financial circumstances of the employer or for any other reason.
164. *Situations unlikely to be of material significance to the Pensions Regulator*  
The following situations are unlikely to be of material significance to the Pensions Regulator:
- contribution failures in schemes where all the members of the scheme are directors of the employing company or family members of the directors;
  - the contribution failures stem from administrative lapses which are corrected thereafter as soon as is reasonably practicable and where reasonable steps are being taken to avoid recurrence; or
  - a claim has been submitted to the Redundancy Payments Service of the Department of Trade and Industry for the outstanding contributions.

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120 See sections 49(8), 49(9)(b) and 49(12) of the Pensions Act 1995 (as amended).

## Providing information to the Pensions Regulator and reasonable periods continued

165. *Reasonable period for trustees to report contribution failures*  
If the trustees decide that a report to the Pensions Regulator of a contribution failure is necessary, it must be made within a reasonable period.<sup>121</sup> They must also make a report within a reasonable period to scheme members.<sup>122</sup>
166. The reasonable period is ten working days in the case of reports to the Pensions Regulator. However, where an immediate report is required then the trustees should make their initial report by telephone and follow up this initial report in writing as soon as reasonably practicable.
167. The reasonable period is one month in the case of reports to members.
- Scheme funding determinations and reasonable periods**
168. The Pensions Regulator may exercise one or more powers provided for in Part 3.<sup>123</sup> Where it does so, trustees must review and, if necessary revise, within a reasonable time or period:
- the statement of funding principles in the case of exercising any Part 3 power;<sup>124</sup> and
  - a recovery plan<sup>125</sup> and schedule of contributions<sup>126</sup> in the case of the exercise of the power to direct how a funding shortfall is to be eliminated.
169. If necessary, the Pensions Regulator will give guidance as to what constitutes a reasonable time or period to the trustees of the scheme subject to the exercise of the power.
- Cross-border schemes**  
*After a valuation*
170. Where a cross-border scheme's actuarial valuation reveals that the technical provisions are not covered, the trustees must send a valuation summary to the Pensions Regulator within a reasonable period.<sup>127</sup>
- Reasonable period for sending the valuation summary*
171. The reasonable period for sending the valuation summary to the Pensions Regulator is within ten working days of the date the related schedule of contributions is certified by the actuary. The schedule should be sent at the same time.

121 See section 228(2) and section 49(9)(b) of the Pensions Act 1995 (as amended) when it is due to be amended in April 2006.

122 See section 228(2).

123 See section 231(2).

124 See regulation 6(3)(b).

125 See regulation 8(3).

126 See regulations 8(3) and 9(2)(c).

127 See paragraph 6(2)(b)(i) of Schedule 2.

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**Regulatory own funds schemes<sup>128</sup>**

*Reasonable period for the actuary to report a failure to certify the calculation of the amount of the regulatory own funds requirement<sup>129</sup>*

172. The reasonable period for reporting a failure to certify is ten working days from the deadline when the trustees must receive the actuarial valuation.

*Reasonable period for trustees to report steps to be taken to ensure that the regulatory own funds requirement is met within two years after the effective date of the valuation<sup>130</sup>*

173. The reasonable period for the trustees to report to the Pensions Regulator is ten working days from when they have received both the actuarial valuation and the certification of the calculation of the amount of the regulatory own funds requirement.

*Reasonable period for trustees to report postponement of compliance with the regulatory own funds requirement<sup>131</sup>*

174. The reasonable period to report is 15 months from the effective date of the first actuarial valuation under Part 3.

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128 See regulation 3 of the Occupational Pensions Schemes (Regulatory Own Funds) Regulations 2005 (SI 2005/3380).

129 See regulation 6(3) of the Occupational Pensions Schemes (Regulatory Own Funds) Regulations 2005 (SI 2005/3380).

130 See regulation 7(2) of the Occupational Pensions Schemes (Regulatory Own Funds) Regulations 2005 (SI 2005/3380).

131 See regulation 10(2) of the Occupational Pensions Schemes (Regulatory Own Funds) Regulations 2005 (SI 2005/3380).

## Appendix A: Corresponding Northern Ireland legislation

GB legislative reference	Corresponding NI legislative reference
The Pensions Act 2004 (c. 35)	The Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Section 69	Article 64
Section 70	Article 65
Section 90(1)	Article 85(1)
Section 90(2)(a), 90(2)(d) and 90(2)(g)	Article 85(2)(a), 85(2)(d) and 85(2)(g)
Section 90(4)	Article 85(4)
Section 90(5)	Article 85(5)
Section 179	Article 162
Section 221	Article 200
Section 222(1)	Article 201(1)
Section 223(2)	Article 202
Section 223(2)(b)	Article 202(2)(b)
Section 224(1)(a), (2)(c), (3), (3)(a) and (3)(b)	Article 203(1)(a), (2)(c), (3), (3)(a) and (3)(b)
Section 225(3)	Article 204(3) and (4)
Section 226(2)(a)	Article 205(2)(a)
Section 226(2)(b)	Article 205(2)(b)
Section 226(3)	Article 205(3)
Section 226(6)	Article 205(6)

<b>GB legislative reference</b>	<b>Corresponding NI legislative reference</b>
Section 227(1)	Article 206(1)
Section 227(2)	Article 206(2)
Section 227(5)	Article 206(5)
Section 227(7)	Article 206(7)
Section 227(9)	Article 206(9) and (10)
Section 228	Article 207
Section 228(1)	Article 207(1)
Section 228(2)	Article 207(2)
Section 229(1)	Article 208(1)
Section 229(5)	Article 208(5)
Section 230(1) and 230(1)(a)	Article 209(1) and 209(1)(a)
Section 231(2)	Article 210(2)
Sections 247 - 249	Articles 224 - 226
Section 318(1)	Article 2(2)
Part 3	Part IV
<b>The Pension Schemes Act 1993 (c. 48)</b>	<b>The Pension Schemes (Northern Ireland) Act 1993 (c. 49)</b>
Section 181(1)	Section 176(1)

**Appendix A:**  
**Corresponding Northern Ireland legislation** continued

<b>The Pensions Act 1995 (c. 26)</b>	<b>The Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))</b>
Section 35	Article 35
Section 39	Article 39
Section 41(2)(a)	Article 41(2)(a)
Section 47(1)(b)	Article 47(1)(b)
Section 49(8)	Article 49(8)
Section 49(9)(b)	Article 49(9)(b)
Section 49(12)	Article 49(12)
Section 124(1)	Article 121(1)
<b>The Occupational Pension Schemes (Scheme Funding) Regulations 2005 (S.I. 2005/3377)</b>	<b>The Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 568)</b>
Regulation 5(2)	Regulation 5(2)
Regulation 5(3)(a)	Regulation 5(3)(a)
Regulation 5(3)(b)	Regulation 5(3)(b)
Regulation 5(4)	Regulation 5(4)
Regulation 5(4)(a)	Regulation 5(4)(a)
Regulation 5(4)(d)	Regulation 5(4)(d)
Regulation 6(3)(a)	Regulation 6(3)(a)
Regulation 6(3)(b)	Regulation 6(3)(b)



GB legislative reference	Corresponding NI legislative reference
Regulation 7(3)	Regulation 7(3)
Regulation 7(4)(a)	Regulation 7(4)(a)
Regulation 7(4)(b)	Regulation 7(4)(b)
Regulation 7(5)	Regulation 7(5)
Regulation 7(6)	Regulation 7(6)
Regulation 8(2)(e)	Regulation 8(2)(e)
Regulation 8(3)	Regulation 8(3)
Regulation 8(7)(a)	Regulation 8(6)(a)
Regulation 8(7)(b)	Regulation 8(6)(b)
Regulation 9(2)(c)	Regulation 9(2)(c)
Regulation 10(2)	Regulation 10(2)
Regulation 10(3)	Regulation 10(3)
Regulation 10(4)	Regulation 10(4)
Regulation 10(6)	Regulation 10(6)
Regulation 12	Regulation 12
Regulation 14(1)	Regulation 14(1)
Regulation 16	Regulation 16

**Appendix A:**  
**Corresponding Northern Ireland legislation** continued

<b>The Occupational Pension Schemes (Scheme Funding) Regulations 2005 (S.I. 2005/3377)</b>	<b>The Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 568)</b>
Regulation 17	Regulation 17
Regulation 17(1)(j)	Regulation 17(1)(j)
Regulation 18	Regulation 18
Schedule 1	Schedule 1
Schedule 2 – Paragraphs 1(1), 2, 6, 6(2)(b)(i), 9(1) to 9(7), 10, 11 and 12	Schedule 2 – Paragraphs 1(1), 2, 6, 6(2)(b)(i), 9(1) to 9(7), 10, 11 and 12
Schedule 3 – Paragraphs 2, 2(3)(b) and 3	Schedule 3 – Paragraphs 6, 6(3)(b) and 7
Schedule 3 – Paragraph 3	Schedule 3 – Paragraph 7
Schedule 4 – Paragraph 3	Schedule 4 – Paragraph 3
<b>The Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (S.I. 1996/1655)</b>	<b>The Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997 (S.R. 1997 No. 98)</b>
Regulation 1(2)	Regulation 1(2)
Regulation 5(12ZA )	Regulation 5(12ZA)
Regulation 7	Regulation 7
Schedule 2	Schedule 2

<b>The Occupational Pension Schemes (Regulatory Own Funds) Regulations 2005 (S.I. 2005/3380)</b>	<b>The Occupational Pension Schemes (Regulatory Own Funds) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 570)</b>
Regulation 3(3)	Regulation 3(3)
Regulation 6(3)	Regulation 6(3)
Regulation 7(2)	Regulation 7(2)
Regulation 10(2)	Regulation 10(2)
<b>The Occupational Pension Schemes (Scheme Administration) Regulations 1996 (S.I. 1996/1715)</b>	<b>The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 (S.R. 1997 No.94)</b>
Regulation 6(1)(a)	Regulation 6(1)(a)
Regulation 6(3)	Regulation 6(3)
Regulation 16	Regulation 16
<b>The Occupational Pension Schemes (Cross-border Activities) Regulations 2005 (S.I.2005/3381)</b>	<b>The Occupational Pension Schemes (Cross-border Activities) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 581)</b>
<b>The Occupational and Personal Pension Schemes (Consultation by Employers) Regulations 2006</b>	<b>The Occupational and Personal Pension Schemes (Consultation by Employers) Regulations (Northern Ireland) 2006</b>
<b>The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 (S.I. 1996/1975)</b>	<b>The Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997 (S.R. 1997 No. 40)</b>
Regulation 2(1)	Regulation 2(1)

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