Draft Regulations laid before Parliament under sections 119(4) and 131(1) of the Pension Schemes Act 2026 (c. 22), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2026 No.

PENSIONS

The AWE Pension Scheme (Transfer of Assets) Regulations 2026

Made - - - - ***

Coming into force in accordance with regulation 1(b)

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 116 and 130(2) and (3) of the Pension Schemes Act 2026(**a**) ("the 2026 Act").

In accordance with section 119(2) of the 2026 Act, these Regulations are made with the consent of the Treasury.

In accordance with section 119(1)(b) of the 2026 Act, the Secretary of State has consulted the trustee company(**b**).

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament in accordance with sections 119(4) and 131(1) of the 2026 Act.

Citation, commencement and extent

1. These Regulations—

(a) may be cited as the AWE Pension Scheme (Transfer of Assets) Regulations 2026;

(b) come into force on the day after the day on which they are made;

(c) extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

"AWE Trust Deed and Rules" means the Definitive Trust Deed with Rules attached dated 13 October 1993, as amended(**c**);

(**a**) 2026 c. 22.
(**b**) The "trustee company" is defined in section 120 of the 2026 Act.
(**c**) Relevant persons within the meaning of regulation 2 of The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734) may request copies of this information from the scheme administrators, Aon at awepension.scheme@aonconsulting.co.uk or AWE Pension Scheme, Aon, PO Box 196, Huddersfield, HD8 1EG.

"cash" means monies held in custody and any other sterling denominated assets which the trustee company reasonably considers to be cash equivalents, including units or shares in short-term, low-risk liquidity or money market funds that are readily realisable at or near their net asset value;

"Crown Guarantee" means the deed of guarantee between the Secretary of State for Defence and AWE Pension Trustees Limited, as Trustee of the AWE Pension Scheme, dated 21 July 2022(**a**);

"financial asset" means any asset of the AWE Pension Scheme(**b**), other than cash or gilts, which is—

(a) an equity instrument of another entity (including units, shares or interests in a collective investment vehicle);

(b) a contractual right to receive cash or another financial asset from another entity; or

(c) a contractual right to exchange financial assets or financial liabilities under conditions that are potentially favourable;

"gilt" means a UK government sterling denominated bond issued by or on behalf of the Treasury;

"Treasury Solicitor" has the same meaning as in the Treasury Solicitor Act 1876, and all references to the Treasury Solicitor are references to the Treasury Solicitor as a nominee of the Secretary of State.

Directions: trustee company

3.—(1) The Secretary of State may give directions to the trustee company from time to time.

(2) A direction given under paragraph (1) may include instructions to—

(a) convert a financial asset or a gilt into cash;

(b) take all reasonable steps to manage any remaining financial assets with a view to converting them to cash;

(c) transfer cash or gilts to the Treasury Solicitor or other nominee specified in the direction.

(3) Paragraphs (4), (5), (6) and (7) apply where the trustee company considers, for any reason, that—

(a) the conversion of a financial asset into cash would materially reduce the value of that asset, or

(b) it is unable to comply with instructions given under a direction in relation to a particular financial asset due to the terms and conditions upon which that asset is held.

(4) Where paragraph (3) applies, the trustee company must—

(a) not carry out the conversion, and

(b) notify the Secretary of State as soon as reasonably practicable.

(5) Upon notification under paragraph (4)(b), the Secretary of State may—

(a) where paragraph (3)(a) applies, require the trustee company to proceed with the conversion by notifying the trustee company ("an instruction to proceed");

(**a**) In 2022, the Ministry of Defence provided a Crown Guarantee to the AWE Pension Scheme Trustee. This was announced in a Written Ministerial Statement dated 6 July 2022, and a Departmental Minute was laid before Parliament on that date https://questions-statements.parliament.uk/written-statements/detail/2022-07-06/hcws187.

(**b**) "AWE Pension Scheme" means the occupational pension scheme established with effect from 1 April 1993 by an interim trust deed dated 29 March 1993 and currently governed by the AWE Trust Deed and Rules.

(b) where paragraph (3)(b) applies, vary the direction or issue a new direction to provide further instructions in relation to that financial asset.

(6) Where the trustee company has made a notification under paragraph (4)(b) to the Secretary of State, the trustee company must disregard the instructions given under that part of the direction that relates to the financial asset to which paragraph (3) applies unless the Secretary of State issues an instruction to proceed, varies the direction or issues a new direction to provide further instructions.

(7) For the purposes of paragraph (3), the reference to the conversion of an asset materially reducing its value includes—

(a) the conversion incurring a material charge, tax, penalty or market value adjustment;

(b) the conversion incurring a material charge, tax or penalty under any agreement ancillary to or connected with the asset, or causing the termination of any such agreement.

(8) The trustee company must comply with a direction given by the Secretary of State, subject to paragraphs (3), (4) and (6).

Directions: AWE PLC

4.—(1) The Secretary of State may give directions to AWE PLC from time to time.

(2) A direction given under paragraph (1) may include instructions to—

(a) receive funds intended to settle obligations arising under regulation 6;

(b) transfer such funds to the trustee company.

(3) AWE PLC must comply with a direction issued by the Secretary of State under this regulation.

Directions: general provision

5.—(1) A direction, notification or instruction to proceed under regulation 3 or 4 must be made in writing.

(2) A direction given under regulation 3 or 4 may be varied or revoked by a further direction given by the Secretary of State.

(3) A direction or instruction to proceed under regulation 3 or 4 must provide the trustee company or AWE PLC (as the case may be) with a reasonable period to comply with its obligations under that direction or instruction to proceed.

Provision for Liabilities

6.—(1) This regulation applies where a direction is given by the Secretary of State under regulation 3 which contains an instruction to convert a financial asset or gilt to cash or to transfer a gilt to the Treasury Solicitor or specified nominee.

(2) The Secretary of State must secure that the trustee company is able to meet any relevant liability it has or may have as such liabilities arise.

(3) Arrangements to secure the liabilities under paragraph (2)—

(a) may include arrangements for financial provision agreed with the trustee company and AWE PLC from time to time;

(b) must come into effect by no later than the day on which the first such direction is given;

(c) must continue until all qualifying accrued rights(**a**) have been transferred to a new public scheme by regulations under section 112(2) of the 2026 Act(**b**).

(4) For the purposes of this regulation, a relevant liability—

(a) includes any liability that could lawfully be paid by or on behalf of the trustee company from the trust assets or by AWE PLC under the AWE Trust Deed and Rules;

(b) includes any liability arising or incurred before provision under this regulation comes into effect.

(5) This regulation does not affect the Crown Guarantee (but see regulation 11).

Disapplication: legislation

7.—(1) This regulation applies where a direction containing an instruction under regulation 3(2) is given by the Secretary of State.

(2) The following provisions and any secondary legislation made under them do not apply in respect of the AWE Pension Scheme from the date on which the first such direction is given—

(a) Pensions Act 1995(**c**)—

(i) sections 11(6) (powers to wind up schemes);

(ii) section 35 (investment principles);

(iii) section 36 (choosing investments);

(iv) sections 41A to 41C (climate change);

(v) sections 73 to 76 (winding up);

(b) Pensions Act 2004(**d**)—

(i) section 32 (sections 23 to 31: supplementary);

(ii) section 38 (contribution notices where avoidance of employer debt);

(iii) sections 43 and 43A (financial support directions);

(iv) section 52 (restoration orders where transactions at an undervalue);

(v) section 69 (duty to notify the Regulator of certain events);

(vi) Part 2 (the Board of the Pension Protection Fund);

(vii) Part 3 (scheme funding);

(c) paragraph (4) of regulation 7B of the Occupational Pension Schemes (Transfer Values) Regulations 1996(**e**).

(**a**) "qualifying accrued rights" are defined in section 112(4) of the 2026 Act.

(**b**) Section 112(2) enables the Secretary of State to make regulations to transfer qualifying accrued rights under the AWE Pension Scheme to a new public scheme.

(**c**) 1995 c. 26; section 35 was substituted by section 244 of the Pensions Act 2004 (c. 35) ("the 2004 Act"); section 36 was amended by section 245 of, and Schedule 13 to, the 2004 Act and S.I. 2001/3649; sections 41A to 41C were inserted by section 124 of the Pensions Schemes Act 2021 (c. 1) ("the 2021 Act"); sections 73 to 73B were substituted, and section 74 was amended, by section 270 of the 2004 Act; sections 73 and 73B were amended by Schedule 4 to the Pension Schemes Act 2015 (c. 8) ("the 2015 Act"); sections 73A and 73B were amended by section 58 of the 2015 Act; section 74 was amended by Schedule 13 to the 2004 Act, Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30) and S.I. 2001/3649; section 75 was substituted by section 271 of the 2004 Act and amended by Schedule 3 to the 2021 Act, S.I. 2017/540 and S.I. 2016/1034; section 75A was inserted by section 272 of the 2004 Act; section 76 was amended by section 10 of, and Schedules 12 and 13 to, the 2004 Act, and S.I. 2006/745.

(**d**) 2004 c. 35. Section 38 was amended by Schedules 9 and 11 to the Pensions Act 2008 (c. 30), section 26 of the Pensions Act 2011 (c. 19) ("the 2011 Act"), S.I. 2016/1034 and sections 103 and 104 of the 2021 Act; section 43 was amended by section 26 of the 2011 Act; Section 43A was inserted by Schedule 9 of the 2008 Act; section 69 was amended by section 108 of the 2021 Act.

(**e**) S.I. 1996/1847; relevant amending instruments are S.I. 2008/1050, 2008/2450 and 2014/1711.

Disapplication: other

8.—(1) This regulation applies where a direction containing an instruction under regulation 3(2) is given by the Secretary of State.

(2) No act or omission of the trustee company, AWE PLC or another person done in good faith in connection with a direction under these Regulations is a breach of any rule of law, including any trust law or fiduciary duties.

(3) For the purposes of paragraph (2), any rule of law includes—

(a) the duty to act with prudence;

(b) the duty to invest scheme assets in the best financial interests of scheme beneficiaries;

(c) the duty to promote the purposes of the trust;

(d) the duty to act in accordance with the provisions of the AWE Trust Deed and Rules.

Modifications

9.—(1) This regulation applies where a direction containing an instruction under regulation 3(2) is given by the Secretary of State.

(2) In the Pensions Act 1995—

(a) in considering whether to make an order under section 3(**a**) in relation to the AWE Pension Scheme, the Authority(**b**) may take into account whether acts or omissions of a person were in connection with a direction under these Regulation;

(b) no act or omission done in good faith in connection with a direction under these Regulations shall be grounds to issue a penalty under section 10(**c**);

(c) for the purposes of section 11(1), the Authority may not take into account an act or omission in connection with a direction under these Regulations;

(d) where the trustee company acts in connection with a direction, this does not constitute a delegation of its discretion to make a decision about investments for the purposes of section 34(2)(**d**).

(3) In the Finance Act 2004(**e**) a payment(**f**) by the trustee company in compliance with such a direction is not an unauthorised employer payment or treated as an unauthorised employer payment for the purposes of section 160(4).

(4) In Part 1 of the Pensions Act 2004, an act or omission done in good faith in connection with a direction under these Regulations—

(a) is not a contravention of one or more provisions of the pensions legislation for the purposes of sections 13(**g**) and 14;

(b) is not an act which constitutes a misuse or misappropriation of any of the assets of the AWE Pension Scheme for the purposes of sections 15 or 16;

(c) does not give rise to an immediate risk to the interests of members under the scheme or the assets of the scheme for the purposes of section 23(**h**);

(**a**) Section 3 was inserted by section 33 of the 2004 Act and amended by S.I. 2010/22.
(**b**) The "Authority" is defined in section 124(1) of the Pensions Act 1995 as the Pensions Regulator.
(**c**) Section 10 was amended by Schedule 2 to the Welfare Reform and Pensions Act 1999, Schedule 13 to the 2004 Act, Schedule 13 to the Tribunals, Courts and Enforcement Act 2007 (c. 15), Schedule 9 to the Crime and Courts Act 2013 (c. 22) and Schedule 7 to the 2021 Act.
(**d**) Section 34(2) was amended by section 5 of the Trustee Delegation Act 1999 (c. 15).
(**e**) 2004 c. 12; section 160(4) was amended by section 161 of, and Schedule 23 to, the Finance Act 2006 (c. 25).
(**f**) "Payment" is defined in section 161 of the Finance Act 2004.
(**g**) Section 13 was amended by Schedule 4 to the Public Service Pensions Act 2013 (c. 25), Schedule 2 to the 2015 Act, S.I. 2015/879 and Schedule 3 to the 2021 Act.
(**h**) Section 23 was amended by the Schedule 4 to the 2015 Act.

(d) is not a course of conduct giving rise to the offence for the purposes of sections 58A(**a**) and 58B(**b**);

(e) does not give rise to a penalty under section 88A(**c**).

Exemption from liability

10.—(1) This regulation applies where a direction is given by the Secretary of State under regulation 3 or 4.

(2) Neither the trustee company nor AWE PLC is responsible, chargeable or liable in relation to any act or omission in connection with a direction under these Regulations, except where liability arises due to the wilful default of the trustee company or AWE PLC.

Proceedings

11.—(1) Where a direction from the Secretary of State has been given under regulation 3, proceedings specified in paragraph (2) may only be brought, or continued if already commenced, with the permission of the Secretary of State.

(2) The proceedings referred to in paragraph (1) are—

(a) proceedings to wind up the AWE Pension Scheme;

(b) a demand for payment under the Crown Guarantee.

(3) For the purposes of this regulation, proceedings to wind up the AWE Pension Scheme include any proceedings under section 11(**d**) of the Pensions Act 1995.

Dated

Defence Minister
Ministry of Defence

We consent

Lords Commissioner of the Treasury
HM Treasury

(**a**) Section 58A was inserted by section 107 of the 2021 Act.
(**b**) Section 58B was inserted by section 107 of the 2021 Act.
(**c**) Section 88A was inserted by section 115 of the 2021 Act.
(**d**) Section 11 was amended by section 22 of, and Schedule 13 to, the 2004 Act and S.I. 2009/1682.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Chapter 3 (AWE Pension Scheme) of the Pension Schemes Act 2026 ("the 2026 Act") establishes a legislative framework to create a new public pension scheme for members of the AWE Pension Scheme, and to transfer the assets of the pension scheme to government. These Regulations are made under section 116 of the 2026 Act and enable the Secretary of State to issue directions that will require the transfer of pension scheme assets to central government.

Regulation 3 makes provision for the Secretary of State to issue binding directions to the trustee company for the purposes of realising and transferring pension scheme assets. It also makes provision for the procedure to be followed where the trustee company wishes to raise certain concerns about the directions with the Secretary of State.

Regulation 4 makes provision for the Secretary of State to issue binding directions to AWE PLC.

Regulation 5 makes general provisions in relation to directions and other notices issued under regulations 3 and 4.

Regulation 6 provides that the Secretary of State is under a duty to ensure that the trustee company can meet all relevant liabilities once the sale of the scheme assets commences.

Regulation 7 ensures that various statutory provisions will no longer apply to the AWE Pension Scheme once the realisation of assets begins.

Regulation 8 ensures that acts or omissions in connection with a direction will not breach any rule of law, including common law fiduciary duties.

Regulation 9 modifies various statutory provisions in relation to acts or omissions in connection with a direction under these Regulations.

Regulation 10 exempts the trustee company and AWE PLC from liability in relation to any act or omission in connection with a direction.

Regulation 11 provides that certain proceedings cannot be brought without the consent of the Secretary of State.

A full impact assessment has not been produced for this instrument as no, or no significant impact on the private, voluntary or public sector is foreseen.

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