

Annex D – Draft Consequential Amendments

Modification of references to a money purchase scheme under the Pensions Act 2004

1.—(1) This regulation applies to a qualifying scheme which is not a money purchase scheme but where some of the benefits that may be provided are collective money purchase benefits.

(2) In the case of a scheme to which this regulation applies, references to a money purchase scheme in the sections of the Pensions Act 2004 set out in paragraph (3) shall be read as if they were references to each section of the scheme that is a collective money purchase scheme for the purposes of Part 1 of the 2021 Act.

(3) The sections referred to in paragraph (2) above are—

- (a) section 38(1)(a) (contribution notices where avoidance of employer debt);
- (b) section 43(1)(a) (financial support directions);
- (c) section 52(1)(a) (restoration orders where transactions at an undervalue).
- (d) section 58A(1)(a) (offence of avoidance of employer debt);
- (e) section 58B(1)(a) (offence of conduct risking accrued scheme benefits);
- (f) section 58C(1)(a) (financial penalty for avoidance of employer debt);
- (g) section 58D(1)(a) (financial penalty for conduct risking accrued scheme benefits).

(4) In this regulation—

- (a) “2021 Act” means the Pension Schemes Act 2021;
- (b) “collective money purchase scheme” has the meaning given by section 1(2) of the 2021 Act (collective money purchase benefits and schemes);
- (c) “collective money purchase benefits” has the meaning given by section 1(1) of the 2021 Act;
- (d) “money purchase scheme” has the meaning given by section 181 of the Pension Schemes Act 1993;
- (e) “qualifying scheme” has the meaning given by section 3 of the 2021 Act.

Amendments to the Occupational Pension Schemes (Employer Debt) Regulations 2005

2.—(1) In the Occupational Pension Schemes (Employer Debt) Regulations 2005—

- (a) in regulation 4 (schemes to which section 75 of the 1995 Act does not apply), at the end of sub-paragraph 1(l) insert—
 - “(m) a section of a qualifying scheme that is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021”;
- (b) in regulation 10 (money purchase schemes: fraud and levy deficiencies etc), in paragraph (4), in the appropriate place insert—
 - ““money purchase schemes” does not include collective money purchase schemes for purposes of Part 1 of the Pension Schemes Act 2021;”.

Amendment to the Occupational Pension Schemes (Deficiency on Winding Up etc) Regulations 1996

3. In the Occupational Pension Schemes (Deficiency on Winding Up etc) Regulations 1996, in regulation 10 (disapplication of section 75), in paragraph (1)—

- (a) in sub-paragraph (g), after “scheme;” omit “or”;
- (b) in sub-paragraph (h), for “.” substitute “,”;
- (c) after sub-paragraph (h) insert—
 - “(i) to a scheme or section of a scheme which is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021.”.

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

4. In the Occupational Pension Schemes (Scheme Funding) Regulations 2005, in regulation 17 (exemptions – general)—

- (a) in sub-paragraph 1(l), after “wound up” omit “or”;
- (b) in sub-paragraph 1(m), for “.” substitute “, or”;
- (c) after sub-paragraph (1)(m) insert—
 - “(n) a scheme or section of a scheme which is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021.”.

Amendment to the Occupational Pension Schemes (Winding Up) Regulations 1996

5. In the Occupational Pension Schemes (Winding up) Regulations 1996, in regulation 13 (hybrid schemes), for paragraph (2) substitute—

- “(2) In paragraph (1) “relevant money purchase benefits” means money purchase benefits other than—
- (a) benefits derived from the payment by any member of voluntary contributions,
 - (b) underpin benefits, or
 - (c) collective money purchase benefits for the purposes of Part 1 of the Pension Schemes Act 2021.”.

Amendment to the Occupational Pension Schemes (Winding Up etc) Regulations 2005

6. In the Occupational Pension Schemes (Winding Up etc) Regulations 2005, in regulation 3 (schemes to which section 73 of the 1995 Act does not apply), in paragraph (1)—

- (a) in sub-paragraph (k)(ii), after “section;” omit “or”;
- (b) in sub-paragraph (l), after “Scheme;” insert “or”;
- (c) after sub-paragraph (l) insert—
 - “(m) a scheme or section of a scheme which is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021.”.

Amendment to the Stakeholder Pension Schemes Regulations 2000

7. In the Stakeholder Pension Schemes Regulations 2000, after regulation 19 (requirement for trustees of a stakeholder pension scheme established under a trust) insert—

“Requirement that a stakeholder pension is not a collective money purchase scheme

19A. For the purposes of section 1(1)(b), it shall be a condition of a scheme being a stakeholder pension scheme that it must not be a collective money purchase scheme within the meaning given in section 1(2) of the Pension Schemes Act 2021.”.

Amendments to the Occupational Pension Schemes (Modification of Schemes) Regulations 2006

8. The Occupational Pension Schemes (Modification of Schemes) Regulations 2006(a) is amended as follows—

- (a) in regulation 1(3) (Citation, commencement and interpretation), in the appropriate places insert—

““collective money purchase scheme” is a scheme or section of a scheme that is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021;

“multi-annual reduction has the meaning given in regulation 2 of the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2021;”;

- (b) in regulation 3—

- (i) at the end of paragraph (i)(ii), substitute the second “or” with “;”;
- (ii) at the end of paragraph (j)(ii), insert—

“; or

(k) which is or results in an adjustment of the rate or amount of benefits provided under a collective money purchase scheme, provided that such adjustment is made in accordance with—

- (i) the most recent actuarial valuation or (as the case may be) any multi-annual reduction in effect; and
- (ii) the scheme rules.”.

Amendments to the Occupational Pension Schemes (Transfer Values) Regulations 1996

9.—(1) The Occupational Pension Schemes (Transfer Values) Regulations 1996 are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2), in the appropriate places insert—

““collective money purchase benefits” are benefits which are collective money purchase benefits for the purposes of Part 1 of the Pension Schemes Act 2021;

“collective money purchase scheme” means a scheme or a section of a scheme which is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021;”.

(3) After regulation 2 (pre-1986 leavers) insert—

Collective money purchase schemes during winding-up

2A.—(1) Chapter 1 of Part 4ZA of the 1993 Act does not apply to a member of a collective money purchase scheme which is pursuing continuity option 1 within the meaning of sections 34 and 36 of the Pension Schemes Act 2021.

(4) In regulation 7 (manner of calculation and verification of cash equivalents – general provisions)—

(a) SI 2006/759

- (a) in paragraph (1)(a)(ii), after “money purchase benefits” insert “other than collective money purchase benefits”;
- (b) after item (1)(a)(ii) insert—
 - “(iii) for collective money purchase benefits, in accordance with regulation 7ZC,”;
- (c) for paragraph (7) substitute—
 - “(7) Where the cash equivalent relates to more than one of the benefits specified in paragraphs (1)(a)(i) to (1)(a)(iii), the initial cash equivalent is to be calculated—
 - (a) for the portion falling within paragraph (1)(a)(i), in accordance with regulations 7A and 7B;
 - (b) for the portion falling within paragraph (1)(a)(ii), in accordance with regulation 7C; and
 - (c) for the portion falling within paragraph (1)(a)(iii), in accordance with regulation 7ZC.”

(5) In regulation 7C (manner of calculation of initial cash equivalents for money purchase benefits and cash balance benefits not calculated by reference to final salary), in paragraph (1), after “money purchase benefits” insert “other than collective money purchase benefits”.

(6) After regulation 7C insert—

“Manner of calculation of initial cash equivalents for collective money purchase benefits

7ZC.—(1) For collective money purchase benefits, the initial cash equivalent is the realisable value of the member’s share at the date of calculation of the collective assets of the collective money purchase scheme, and is to be calculated—

- (a) on an actuarial basis;
- (b) using assumptions determined in accordance with this regulation; and
- (c) in accordance with the scheme rules, to the extent that they are consistent with subparagraphs (a) and (b).

(2) Having taken the advice of the actuary, the trustees must—

- (a) determine the economic, financial and demographic assumptions; and
- (b) calculate the initial cash equivalent by using the assumptions so determined.

(3) In determining the demographic assumptions, the trustees must have regard to—

- (a) the main characteristics of the members of the scheme; or
- (b) where the members of the scheme do not form a large enough group to allow demographic assumptions to be made, the characteristics of a wider population sharing similar characteristics to the members.

(4) The trustees must have regard to the scheme's investment strategy when deciding what assumptions will be included in calculating the discount rates in respect of the member.

(5) The trustees must determine the assumptions under this regulation with the aim that, taken as a whole, they should lead to the best estimate of the initial cash equivalent.”.

(7) In regulation 13(1) (extension of time limits for payment of cash equivalents)(a)—

- (a) for “section 99(2)(a) or, as the case may be, (b)” substitute “section 99(2)(a), (b) or, as the case may be, (c)(b)”;

(a) Regulation 13(1) was amended by S.I. 2005/686, 2016/200 and 2018/1030; there are other amending instruments but none is relevant.

(b) Section 99(2)(c) was inserted by section 25(4)(c) of the Pension Schemes Act 2021 (c. 1).

- (b) at the end of sub-paragraph (bb) omit “or”;
- (c) after sub-paragraph (bb) insert—
 - “(bc) the scheme is, or within the three months immediately before the end of that period has been, the subject of a pause order under section 44(5) of the Pension Schemes Act 2021^(a) which contains a direction under section 44(5)(e) of that Act (no transfers etc. of members’ rights); or”;
- (d) in sub-paragraph (c), for “(ba) or (bb)” substitute “(ba), (bb) or (bc)”.

(8) In Schedule 1 (information to be made available to members), after paragraph 3 insert—

“**10.** Where information is made available under this Schedule to a member of a collective money purchase scheme, the information to be made available to such a member also includes—

- (a) a statement that the Money and Pensions Service provides information about transfers that may assist the member in deciding whether to transfer;
- (b) an explanation of any potential adverse consequences for the member of transferring before normal pension age;
- (c) an explanation of the trustees’ duties under section 99A of the 1993 Act (trustees’ further duties: collective money purchase benefits);
- (d) an explanation that the member will not be able to transfer in the event of the scheme pursuing continuity option 1 in accordance with sections 34 and 36 of the Pension Schemes Act 2021.”.

Amendment to the Occupational Pension Schemes (Investment) Regulations 2005

10.—(1) The Occupational Pension Schemes (Investment) Regulations 2005 are amended as follows.

(2) In regulation 2A, in paragraph (1), after “default arrangement” insert “(if any)”.

Amendments to the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991

11.—(1) The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 are amended as follows.

(2) In regulation 12 (transfer of member’s accrued rights without consent)—

- (a) In paragraph (1), before “for” insert “Subject to paragraph (3A), “;
- (b) After paragraph 3 insert—
 - “(3A) A scheme may not provide for the member’s accrued rights which are not relevant money purchase rights to be transferred to a collective money purchase scheme.”;
- (c) In paragraph 10, in the appropriate place insert—
 - ““collective money purchase scheme” means a scheme or a section of a scheme which is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021;”.

(3) After regulation 12 insert—

“Discharge of liabilities by collective money purchase scheme which is winding up

12A (1) For the purposes of section 73(4) of the Act, a collective money purchase scheme may provide for the scheme’s liability to a beneficiary in respect of the beneficiary’s

(a) 2021 c. 1.

accrued rights to benefits under the scheme to be discharged in accordance with the default discharge option for that beneficiary without the consent of the beneficiary where—

- (a) the scheme is pursuing continuity option 1 within the meaning of sections 34 and 36 of the Pension Schemes Act 2021; and
- (b) the trustees of the scheme do not receive a notice from the beneficiary in accordance with paragraph 14 of Schedule 6 to the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2021.

(2) In this regulation,

- (a) “beneficiary” has the meaning given in section 36(8) of the Pension Schemes Act 2021;
- (b) “collective money purchase scheme” means a scheme or a section of a scheme which is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021; “default discharge option” has the meaning given in paragraph 1(1) of the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2021.

Amendments to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006

12.—(1) The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 are amended as follows.

(2) In regulation 10 (listed changes: exclusions)—

(a) in paragraph (1), after sub-paragraph (ab) insert—

“(ac) is made for the purposes of making an adjustment to the rate or amount of benefits provided under a collective money purchase scheme in accordance with the scheme rules;”;

(b) after paragraph (4) insert—

“(5) “Collective money purchase scheme” means a scheme or a section of a scheme which is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021.”.

Amendments to the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc) Regulations 1997

13.—(1) The Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc) Regulations 1997 are amended as follows.

(2) In regulation 8—

(a) after paragraph (7), insert—

“(7A) Section 91(1)(c) of the 1995 Act (inalienability of occupational pension) does not apply to a scheme or a section of a scheme which is a collective money purchase scheme for the purposes of Part 1 of the Pension Schemes Act 2021 and which is pursuing continuity option 1 within the meaning of sections 34 and 36 of that Act, to the extent that it would prevent a reduction to the quantification of the value of a beneficiary’s accrued rights to benefits under the scheme to take account of any periodic income received by that beneficiary in accordance with Schedule 6 (continuity option 1: transfer out and winding up) to the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2021.”;

(b) after paragraph (8), insert—

(9) In paragraph (7A), “periodic income” has the meaning given in paragraph 1(1) of Schedule 6 to the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2021.