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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

The Pensions Act 2011(Transitional, Consequential  
and Supplementary Provisions) Regulations 2014

PART 6

Winding Up

**Application of this Part in relation to multi-employer schemes**

**10.** Where, by virtue of regulation 12 of the Occupational Pension Schemes (Winding Up) Regulations 1996 (winding up of sectionalised schemes etc)(**1**), section 73 of the 1995 Act (preferential liabilities on winding up)(**2**) applied or applies to a scheme as if a section or part of the scheme were separate schemes (or would do or have done so, but for these Regulations), this Part also so applies.

**Schemes treated as money purchase schemes: winding up commencing before 6th April 2005**

**11.**—(1) This regulation applies where—

- (a) an occupational pension scheme began to wind up before 6th April 2005 (whether or not the scheme has completed winding up before the appointed day); and
- (b) if it were not for this regulation, the trustees or managers of the scheme would have been required to wind up the scheme in accordance with section 73 of the 1995 Act.

(2) Where the conditions specified in paragraph (3) are met in relation to the scheme, section 73 of that Act (as it stood on the date that the scheme began to wind up) has effect in relation to the scheme as if after subsection (1) there were inserted—

“(1A) In subsection (1) “salary related occupational pension scheme” does not include a scheme which provides—

- (a) cash balance benefits;
- (b) money purchase benefits; or
- (c) pensions derived from money purchase or cash balance benefits,

and no benefits other than those specified in paragraphs (a) to (c) or death benefits.

(1B) In subsection (1A) “cash balance benefit” has the meaning given by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014.”.

(3) The conditions specified in this paragraph are that, immediately before the scheme began winding up—

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(1) [S.I. 1996/3126](#).

(2) Section 73 was substituted with prospective effect by section 270(1) of the 2004 Act for section 73 as originally enacted, but the original form of that section continues to have effect in relation to schemes which commence winding up before 6th April 2005. There are no relevant amendments to Section 73 as originally enacted.

- (a) the scheme included cash balance benefits or pensions derived from money purchase or cash balance benefits;
- (b) the scheme included no benefits other than those specified in sub-paragraph (a), money purchase benefits or death benefits; and
- (c) the trustees or managers of the scheme treated the scheme as a money purchase scheme.

**Non-money purchase schemes providing benefits treated as money purchase benefits: winding up commencing before 6th April 2005**

12.—(1) This regulation applies where an occupational pension scheme not treated by the trustees or managers of the scheme as a money purchase scheme began to wind up before 6th April 2005 (whether or not winding up has been completed by the appointed day).

(2) Where the conditions specified in paragraph (3) are met in relation to the scheme, regulation 13 of the Occupational Pension Schemes (Winding Up) Regulations 1996 (hybrid schemes)(3) has effect in relation to the scheme as if—

- (a) in paragraph (1)(b), after “relevant money purchase benefits” there were inserted “or relevant cash balance benefits”;
- (b) in paragraph (2), for ““relevant money purchase benefits” means money purchase benefits” there were substituted ““relevant money purchase benefits” and “relevant cash balance benefits” means (as the case may be) money purchase benefits or cash balance benefits”;
- (c) for paragraph (3) there were substituted—

“(3) In this regulation—

- (a) “cash balance benefit” has the meaning given by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014; and
- (b) “underpin benefits” means money purchase or cash balance benefits (as the case may be) which will only be provided in respect of a member if their value exceeds the value of other benefits in respect of the member under the scheme which are not money purchase or cash balance benefits.”.

(3) The conditions specified in this paragraph are that immediately before the scheme began winding up—

- (a) the scheme included cash balance benefits; and
- (b) the trustees or managers of the scheme treated those benefits as if they were money purchase benefits.

**Schemes treated as money purchase schemes: winding up commencing on or after 6th April 2005 but before the appointed day**

13.—(1) This regulation applies where an occupational pension scheme which was treated as a money purchase scheme began to wind up on or after 6th April 2005 but before the appointed day (whether or not winding up has been completed by the appointed day).

(2) Where the conditions specified in regulation 11(3) (schemes treated as money purchase schemes: winding up commencing before 6th April 2005) are met in relation to the scheme,

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(3) [S.I.1996/3126](#). Regulation 13 applies in relation to schemes commencing winding up before 6<sup>th</sup> April 2005. Regulation 13 was amended by S.I.s [2002/380](#) and [2005/3377](#).

section 73 of the 1995 Act (preferential liabilities on winding up)(4) has effect in relation to the scheme as if for subsection (2) there were substituted—

“(2) This section applies to an occupational pension scheme other than a scheme which is—

- (a) a money purchase scheme;
- (b) a cash balance scheme;
- (c) a scheme which provides money purchase benefits and cash balance benefits and no other benefits except death benefits; or
- (d) a prescribed scheme or a scheme of a prescribed description.

(2A) In this section—

“cash balance benefit” has the meaning given by regulation 2 of the Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014;

“cash balance scheme” means a scheme which provides—

- (a) cash balance benefits or pensions derived from cash balance benefits; and
- (b) no benefits other than—
  - (i) those specified in paragraph (a);
  - (ii) money purchase benefits or pensions derived from money purchase benefits; or
  - (iii) death benefits; and

“money purchase scheme” means a scheme which provides or may provide no benefits other than—

- (a) money purchase benefits or pensions derived from money purchase benefits; or
- (b) death benefits.”.

**Non-money purchase schemes including benefits treated as money purchase benefits: winding up commencing on or after 6th April 2005 but before the appointed day**

14.—(1) This regulation applies where an occupational pension scheme not treated by the trustees or managers of the scheme as a money purchase scheme began to wind up on or after 6th April 2005, but before the appointed day (whether or not winding up has been completed by the appointed day).

(2) Where the condition specified in paragraph (3) is met immediately before the scheme began winding up, section 73 of the 1995 Act applies in relation to the winding up of the scheme as if the benefits specified in paragraph (4) which the trustees or managers of the scheme treated as money purchase benefits were money purchase benefits.

(3) The condition specified in this paragraph is that the scheme included benefits specified in paragraph (4) which the trustees or managers of the scheme treated as money purchase benefits.

(4) The benefits specified in this paragraph are—

- (a) cash balance benefits;
- (b) a defined benefit minimum (in relation to money purchase underpin benefits or cash balance underpin benefits);
- (c) top-up benefits;
- (d) pensions derived from money purchase benefits; and

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(4) Section 73 was substituted with prospective effect for that section as originally enacted by section 270(1) of the 2004 Act: this version of the section has effect in relation to schemes which commence winding up on or after 6th April 2005.

- (e) pensions derived from any of the benefits specified in sub-paragraphs (a) to (c).

### **Schemes winding up after an assessment period**

**15.**—(1) This regulation applies where an assessment period in relation to an occupational pension scheme began before the appointed day and either—

- (a) that assessment period comes to an end (whether before, on or after the appointed day) and the trustees or managers of the scheme are required to wind up or continue to wind up the scheme in accordance with section 154(1) of the 2004 Act (requirement to wind up schemes with sufficient assets to meet protected liabilities)<sup>(5)</sup>; or
- (b) the Board ceases to be involved with the scheme in accordance with section 149(1) of that Act (circumstances in which Board ceases to be involved with an eligible scheme) and the scheme is winding up.

(2) Subject to paragraph (4), where the condition specified in paragraph (3) is met, the trustees or managers of the scheme may determine that the benefits specified in regulation 14(4) (non-money purchase schemes including benefits treated as money purchase benefits: winding up commencing on or after 6<sup>th</sup> April 2005 but before the appointed day), which the trustees or managers treated as money purchase benefits, are to be treated as money purchase benefits for the purposes of winding up the scheme in accordance with section 73 of the 1995 Act.

(3) The condition specified in this paragraph is that, immediately before the assessment period referred to in paragraph (1) began, the scheme included any of the benefits specified in regulation 14(4), which the trustees or managers of the scheme treated as money purchase benefits.

(4) Where the Board has previously made a determination under regulation 55(1) (discharge as money purchase benefits: periods after the appointed day) that benefits specified in regulation 45(3) (validity of valuations etc, determinations, transfer notices and discharge of benefits before the appointed day) should, or should not, be discharged as money purchase benefits, the trustees or managers of the scheme must wind up or continue to wind up the scheme in accordance with that determination.

(5) Where the trustees or managers of the scheme—

- (a) determine in accordance with paragraph (2) that benefits specified in regulation 14(4) which the trustees or managers of the scheme treated as money purchase benefits should be treated as money purchase benefits for the purposes of winding up the scheme; or
- (b) are required to wind up or continue to wind up the scheme in accordance with paragraph (4),

section 73 of the 1995 Act applies in relation to the benefits treated as money purchase benefits as if those benefits were money purchase benefits.

### **Closed schemes: further assessment periods**

**16.**—(1) This regulation applies where—

- (a) an assessment period in relation to an occupational pension scheme began before the appointed day;
- (b) the scheme is authorised (whether before, on or after that day) to continue as a closed scheme under section 153(5) of the 2004 Act (closed schemes);
- (c) there is a further assessment period in relation to the scheme; and
- (d) that further assessment period ends because the conditions specified in section 154(5) of that Act are met.

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(5) Section 154(5) was amended by section 22 and paragraph 10 of Schedule 4 to the Pensions Act 2011 (c. 19) (“the Act”).

(2) Where the conditions specified in paragraph (3) are met, the trustees or managers of the scheme must wind up or continue the winding up of the scheme as if the benefits specified in regulation 14(4) which the trustees or managers of the scheme treated as money purchase benefits were money purchase benefits.

(3) The conditions specified in this paragraph are that—

(a) the scheme included any of the benefits specified in regulation 14(4); and

(b) the trustees or managers of the scheme have either —

(i) in accordance with regulation 53(2) (schemes continuing as closed schemes after an assessment period), determined that benefits specified in regulation 53(4) treated as money purchase benefits should continue to be treated as money purchase benefits;

or

(ii) in accordance with regulation 53(5)(b), treated benefits specified in regulation 14(4) as money purchase benefits in accordance with a determination or a direction made by the Board.

(4) Where the trustees or managers of the scheme are required to wind up or continue to wind up the scheme in accordance with paragraph (2), section 73 of the 1995 Act applies in relation to the benefits treated as money purchase benefits as if those benefits were money purchase benefits.

#### **Discharge of pensions in payment derived from additional voluntary contributions treated as money purchase benefits: scheme commencing winding up on or after the appointed day**

17.—(1) Subject to paragraph (3), where the conditions specified in paragraph (2) are met in relation to a member's pension or part of a pension in payment, the trustees or managers of an occupational pension scheme may determine that the pension or part of a pension should be discharged as if it were money purchase benefits.

(2) The conditions are that—

(a) the scheme commences winding up on or after the appointed day;

(b) the pension or part of a pension—

(i) is derived from additional voluntary contributions;

(ii) is, or is derived from (as the case may be), any of the benefits specified in regulation 14(4) which were before the appointed day treated by the trustees or managers of the scheme as money purchase benefits; and

(iii) comes into payment on or before 1st April 2015; and

(c) the trustees or managers of the scheme are satisfied that it is reasonable in the circumstances to treat the pension or part of a pension as money purchase benefits.

(3) Where an assessment period or further assessment period in relation to an eligible scheme has begun, the power of the trustees or managers of the scheme under paragraph (1) is subject to a direction by the Board under regulation 58(1) (discharge of pensions in payment derived from additional voluntary contributions treated as money purchase benefits: periods after the appointed day) that the pension or part of the pension should, or should not, be discharged as money purchase benefits.