



# Pension Schemes Act 2021

## 2021 CHAPTER 1

### PART 1

#### COLLECTIVE MONEY PURCHASE BENEFITS

##### *Triggering events and continuity options*

#### **36 Continuity option 1: discharge of liabilities and winding up**

- (1) Where the trustees of a collective money purchase scheme are required, or decide, to pursue continuity option 1, they must—
  - (a) quantify, in the case of each beneficiary, the amount that represents the value of the beneficiary's accrued rights to benefits under the scheme;
  - (b) formulate a proposal for discharging the scheme's liability to each beneficiary in respect of those rights, in one of the ways set out in subsection (2);
  - (c) notify each employer and relevant former employer, and each beneficiary, of the proposal and of such other matters as may be specified in regulations made by the Secretary of State.
- (2) The ways of discharging the scheme's liability referred to in subsection (1)(b) are—
  - (a) transferring the value of the beneficiaries' accrued rights to benefits under the scheme to a collective money purchase scheme or to a Master Trust scheme;
  - (b) transferring the value of those rights, in such circumstances as may be specified in regulations made by the Secretary of State, to a pension scheme that has characteristics specified in the regulations;
  - (c) securing, in such circumstances as may be specified in regulations made by the Secretary of State, the payment of benefits by such other means (an "alternative payment mechanism") as may be specified in the regulations.
- (3) A proposal under subsection (1)(b) may deal with the rights of different descriptions of beneficiaries in different ways.
- (4) Subsections (1)(b) and (2) have effect subject to—

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- (a) Part 4ZA of the Pension Schemes Act 1993 (transfers and contribution refunds);
  - (b) provision made by regulations under subsection (6).
- (5) Notification under subsection (1)(c) must be given—
- (a) in the manner specified in regulations made by the Secretary of State, and
  - (b) before the end of the period specified in the regulations.
- (6) The Secretary of State may by regulations make provision for the purposes of enabling continuity option 1 to be given effect, which may include—
- (a) provision about how continuity option 1 is to be pursued by the trustees of a collective money purchase scheme;
  - (b) provision conferring rights on beneficiaries or employers;
  - (c) provision imposing duties on employers or trustees;
  - (d) provision conferring power on the Pensions Regulator to direct trustees to do things permitted or required by the regulations;
  - (e) provision deeming a beneficiary the value of whose accrued rights are to be transferred to a scheme that is not a collective money purchase scheme or a Master Trust scheme to have entered into an agreement with a person of a description specified in the regulations.
- (7) Regulations under subsection (6) must include—
- (a) provision about how the quantification referred to in subsection (1)(a) is to be carried out (which may be different in relation to different descriptions of beneficiaries);
  - (b) provision for securing that a person who has become a pensioner beneficiary (whether before or after the occurrence of the triggering event as a result of which the trustees are pursuing continuity option 1) receives a periodic income, at a rate or of an amount that is calculated by reference to the amount referred to in subsection (1)(a), until the time when the proposal under subsection (1)(b) is implemented or some other specified time;
  - (c) provision about how rights conferred by the regulations may be exercised (including the time periods within which they may be exercised);
  - (d) provision specifying requirements (which may include approval or authorisation by the Pensions Regulator in accordance with the regulations) to be met in the case of a pension scheme, or an alternative payment mechanism, by means of which it is proposed to discharge the collective money purchase scheme's liabilities to beneficiaries in one of the ways set out in subsection (2);
  - (e) provision requiring those responsible for a pension scheme by means of which it is proposed to discharge the collective money purchase scheme's liabilities to beneficiaries ("the receiving scheme") to provide the Pensions Regulator with a document setting out the level of administration charges that applied in relation to members of the receiving scheme, in the manner and as at the date specified or described in the regulations;
  - (f) provision imposing duties on the trustees to notify all or a specified description of employers and beneficiaries of their rights under the regulations and of members' rights under Part 4ZA of the Pension Schemes Act 1993;
  - (g) provision about the winding up of the collective money purchase scheme in circumstances where the scheme's liabilities to beneficiaries are discharged.
- (8) In this section—

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“beneficiary”, in relation to the collective money purchase scheme, means—

- (a) a member of the scheme, or
- (b) a person who has survived a member of the scheme and has an entitlement to benefits, or a right to future benefits, under the scheme rules in respect of the member;

“pensioner beneficiary”, in relation to the collective money purchase scheme, means a person who is entitled to the present payment of pension or other benefits under the scheme;

“specified” means specified in regulations under subsection (6).

- (9) Section 10 of the Pension Act 1995 (civil penalties) applies to a person who fails to comply with a requirement imposed by this section.
- (10) Regulations under this section may provide for the application of section 10 of the Pensions Act 1995 to a person who fails to comply with a requirement imposed by the regulations.
- (11) Regulations under subsection (2) or (6) are subject to affirmative resolution procedure.
- (12) Regulations under subsection (1)(c) or (5) are subject to negative resolution procedure.