

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL PENSION SCHEMES (MASTER TRUSTS) (AMENDMENT)
REGULATIONS

2022 No. 277

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of this Instrument

2.1 These regulations amend the definition of “administration charge” which will apply in relation to members of an authorised Master Trust scheme to ensure that costs solely attributable to holding physical assets will remain excluded from that definition, following changes made by the Pension Schemes Act 2021.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument is Great Britain.

4.2 The territorial application of this instrument is Great Britain.

4.3 We anticipate Northern Ireland will make separate parallel legislation.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Section 127(2) of the Pension Schemes Act 2021¹ made an amendment to the definition of “administration charge” in paragraph 1(5) of Schedule 18 to the Pensions Act 2014² to clarify its scope. The amended definition would have applied to authorised Master Trust schemes by virtue of section 39 of the Pension Schemes Act 2017 (c. 17)³; however, in order to maintain the status quo, a saving provision was introduced via Regulation 10 of the Pension Schemes Act 2021 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2021 (S. I. 2021/950)⁴. As this saving provision ceases to have effect on 5th April 2022, these regulations are being made to ensure that the status quo continues to be maintained, and that there is no gap between the saving provision ceasing to have effect and the amended definition taking effect.

¹ <https://www.legislation.gov.uk/ukpga/2021/1/contents/enacted>

² <https://www.legislation.gov.uk/ukpga/2014/19/contents>

³ <https://www.legislation.gov.uk/ukpga/2017/17/contents/enacted>

⁴ <https://www.legislation.gov.uk/uksi/2021/950/contents/made>

7. Policy background

- 7.1 The Pensions Act 2008⁵ made it compulsory for employers to automatically enrol eligible workers into a qualifying workplace pension scheme. A Master Trust scheme is one which is used by more than one employer, provides money purchase pensions, and is not a public sector scheme or used only by connected employers (for example, by one profession or a group of companies). The majority of employers have chosen to enrol their workers into a Master Trust scheme rather than setting up their own pension scheme.
- 7.2 Given the considerable expansion of the Master Trust market the Pension Schemes Act 2017 introduced a framework for an authorisation regime for Master Trust schemes, to address the specific risks that were not addressed by current legislation at that time. These risk factors include the size and scope of the schemes, the relative lack of employer engagement, diverse business models and other factors that influence their financial resilience and viability. The Occupational Pension Schemes (Master Trusts) Regulations 2018 (“the Master Trusts Regulations”)⁶ sets out a detailed authorisation and supervision regime administered by the Pensions Regulator to address these risks.
- 7.3 These regulations amend the definition of “administration charge” which will apply in relation to members of an authorised Master Trust scheme under regulation 25 of the Master Trusts Regulations. This is to ensure that costs solely attributable to holding physical assets will remain excluded from that definition, following the changes made by the Pension Schemes Act 2021.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This amendment makes a change to the existing legislation and is technical and minor. No consolidation of the regulations is planned.

10. Consultation outcome

- 10.1 The regulations were subject to informal consultation. This was carried out through the Department for Work and Pensions’ Provider Forum. This is a group of representatives from a wide range of organisations in the pensions industry (many of whom are representatives of Master Trusts) who meet with DWP regularly to discuss pensions issues. There was support to make these regulations.

11. Guidance

- 11.1 No guidance has been provided in respect of these regulations. The Pensions Regulator has produced detailed guidance in respect of The Occupational Pension Schemes (Master Trusts) Regulations 2018. This can be accessed at the Pensions Regulator’s website.⁷

⁵ <https://www.legislation.gov.uk/ukpga/2008/30/contents>

⁶ <https://www.legislation.gov.uk/ukdsi/2018/9780111169261/contents>

⁷ <https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-15-authorisation-and-supervision-of-master-trusts>

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because a full impact assessment was prepared for the Occupational Pension Schemes (Master Trusts) Regulations 2018⁸. Administration charges was further assessed as part of the Pensions Act 2021⁹. The assessment was that there would be no impact on business because the measure is providing clarity on the existing policy intent. The associated secondary legislation will result in no net cost to businesses on this basis.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses. The Occupational Pension Schemes (Master Trusts) Regulations 2018 sets out application of the authorisation and supervision regime and the impact on small businesses.

14. Monitoring & review

- 14.1 The instrument does not include a statutory review clause. Given the technical nature and focussed application of these regulations, it would be disproportionate in these circumstances to make statutory provision for a review. The Department for Work and Pensions will, however, continue to work closely with its stakeholders, including industry bodies and employer organisations, to keep these regulations under review and should any issue arise with these policies, it will assess the evidence and, if appropriate, consider whether any changes may be necessary.
- 14.2 Guy Opperman MP, Parliamentary Under-Secretary of State for the Department for Work and Pensions, has made the following statement under section 28(2)(b) of the Small Business Enterprise and Employment Act 2015.

“Having had regard to the Statutory Review Guidance for Departments published under section 31(3) of the Small Business, Enterprise and Employment Act 2015, in my view, it is not appropriate to make provision for review in the “Occupational Pension Schemes (Master Trusts) (Amendment) Regulations 2022.”

15. Contact

- 15.1 Mike Moore at the Department for Work and Pensions (telephone: 0207 449 7021 or by email: mike.moore@dw.p.gov.uk) can be contacted with any queries regarding these legislative instruments.
- 15.2 Jo Gibson, Deputy Director for Private Pensions Policy, at the Department for Work and Pensions has confirmed that this Explanatory Memorandum meets the required standard.
- 15.3 Guy Opperman, Parliamentary Under-Secretary of State for the Department for Work and Pensions has confirmed that this Explanatory Memorandum meets the required standard.

⁸ https://www.legislation.gov.uk/ukdsi/2018/9780111169261/pdfs/ukdsiod_9780111169261_en.pdf

⁹ https://www.legislation.gov.uk/ukpga/2021/1/pdfs/ukpgaod_20210001_en_001.pdf#page=167&zoom=100,92,96