
STATUTORY INSTRUMENTS

2006 No. 349

**The Occupational and Personal Pension
Schemes (Consultation by Employers and
Miscellaneous Amendment) Regulations 2006**

Restriction on decision-making pending completion of consultation

Consultation required before decisions to make listed changes affecting schemes

6.—(1) No person falling within regulation 3(1) may decide to make a listed change that affects an occupational or personal pension scheme unless such consultation as is required by regulation 7(3) has been carried out.

(2) For the purposes of these Regulations, a change affecting an occupational or personal pension scheme is a “listed change” if—

- (a) in relation to an occupational pension scheme, it is listed in regulation 8, or
- (b) in relation to a personal pension scheme, it is listed in regulation 9,

and it is not excluded by virtue of regulation 10.

(3) Paragraph (1) does not require consultation to be carried out in any of the four cases described in paragraphs (4) to (7).

(4) [F¹The first case is where the active or prospective members of the scheme to whom—

- (a) a listed change mentioned in regulation 8(1)(h) relates were notified before 6th April 2012 of the proposal to make that change, or
- (b) any other listed change relates were notified before 6th April 2006 of the proposal to make that change.]

(5) The second case is where, in relation to an occupational pension scheme—

- (a) consultation has already been carried out under these Regulations in respect of a proposal to prevent the future accrual of benefits, as described in regulation 8(1)(c), and
- (b) there is a further proposal as a result of that consultation to make a decision to reduce the rate of such accrual, as described in regulation 8(3)(d).

(6) The third case is where, in relation to an occupational pension scheme—

- (a) consultation has already been carried out under these Regulations in respect of a proposal to remove the liability to make employer contributions, as described in regulation 8(1)(d), and
- (b) there is a further proposal as a result of that consultation to make a decision to reduce such contributions, as described in regulation 8(2).

(7) The fourth case is where, in relation to a personal pension scheme—

- (a) consultation has already been carried out under these Regulations in respect of a proposal to cease employer contributions, as described in regulation 9(a), and
- (b) there is a further proposal as a result of that consultation to make a decision to reduce such contributions, as described in regulation 9(b).

Changes to legislation: There are currently no known outstanding effects for the The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006, Restriction on decision-making pending completion of consultation. (See end of Document for details)

Textual Amendments

- F1** Reg. 6(4) substituted (6.4.2012) by [The Pensions \(Institute and Faculty of Actuaries and Consultation by Employers Amendment\) Regulations 2012 \(S.I. 2012/692\)](#), regs. 1(2), **2(2)**

Notifications to employers and duty to consult

7.—(1) Any person falling within regulation 3(1) who proposes to make a listed change affecting an occupational or personal pension scheme must give written notice of that change to each employer in relation to the scheme.

(2) Paragraph (1) does not apply—

- (a) in any of the four cases described in regulation 6(4) to (7), or
- (b) where the person proposing the change is a relevant employer in relation to—
 - (i) an occupational pension scheme which is not a multi-employer scheme, or
 - (ii) a personal pension scheme.^[F2] or
- (c) where the person proposing the change employs all the affected members.]

(3) ^[F3]A relevant employer must consult about the listed change in accordance with regulations 11 to 16 if—

- (a) it employs all the affected members, or
- (b) its employees appear to it to include affected members and it is a relevant employer who—
 - (i) has been notified under paragraph (1), or
 - (ii) falls within paragraph (2)(b).]

(4) For the purposes of these Regulations “ affected members ”, in relation to a proposal to make a listed change affecting an occupational or personal pension scheme, means the active or prospective members of the scheme to whom the listed change relates.

Textual Amendments

- F2** Reg. 7(2)(c) and word inserted (6.4.2011) by [The Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/672\)](#), regs. 1(2)(b), **7(a)**
- F3** Reg. 7(3) substituted (6.4.2011) by [The Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/672\)](#), regs. 1(2)(b), **7(b)**

Listed changes: occupational pension schemes

8.—(1) Listed changes that affect occupational pension schemes are—

- (a) to increase the normal pension age specified in the scheme rules for members or members of a particular description;
- (b) to prevent new members, or new members of a particular description, from being admitted to the scheme;
- (c) to prevent the future accrual of benefits under the scheme for or in respect of members or members of a particular description;
- (d) to remove the liability to make employer contributions towards the scheme in respect of members or members of a particular description;

- (e) to introduce member contributions in any circumstances in which no such contributions were previously payable;
- (f) to make any increase in member contributions by or on behalf of members or members of a particular description;
- (g) to make any change specified in paragraph (2) or (3).
- [^{F4}(h) to change the rate at which—
 - (i) pensions in payment under the scheme are increased, or
 - (ii) pensions or other benefits payable under the scheme are revalued,but only where that change would be, or would be likely to be, less generous to members or members of a particular description.]
- (2) A listed change affecting only money purchase benefits is to make any reduction in the amount of employer contributions towards the scheme in respect of members or members of a particular description.
- (3) Listed changes affecting only benefits which are not money purchase benefits are—
 - (a) to change to money purchase benefits some or all of the benefits that may be provided under the scheme to or in respect of members or members of a particular description;
 - (b) to change, in whole or in part, the basis for determining the rate of future accrual of benefits under the scheme for or in respect of members or members of a particular description;
 - (c) to modify the scheme under section 229(2) of the Pensions Act 2004 (matters requiring agreement of the employer) so as to reduce the rate of future accrual of benefits under the scheme for or in respect of members or members of a particular description;
 - (d) to make any other reduction in the rate of future accrual of benefit under the scheme for or in respect of members or members of a particular description.
- [^{F5}(e) to change what elements of pay constitute pensionable earnings, or to change the proportion of or limit the amount of any element of pay that forms part of pensionable earnings, for or in respect of members or members of a particular description.]
- (4) “ Normal pension age ” has the meaning given by section 180 of the Pension Schemes Act 1993 ^{M1} (normal pension age).
- [^{F6}(5) “Pensionable earnings” means the earnings by reference to which pension benefits are calculated, and an “element of pay” includes basic salary, a pay rise, an overtime payment, and a bonus payment.]

Textual Amendments

- F4** Reg. 8(1)(h) inserted (6.4.2012) by [The Pensions \(Institute and Faculty of Actuaries and Consultation by Employers Amendment\) Regulations 2012 \(S.I. 2012/692\)](#), regs. 1(2), **2(3)**
- F5** Reg. 8(3)(e) inserted (6.4.2010) by [The Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/499\)](#), regs. 1, **7(2)**
- F6** Reg. 8(5) inserted (6.4.2010) by [The Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/499\)](#), regs. 1, **7(3)**

Marginal Citations

- M1** 1993 c. 48.

Listed changes: personal pension schemes

- 9. Listed changes that affect personal pension schemes are—

- (a) to cease employer contributions towards the scheme in respect of members or members of a particular description;
- (b) to make any reduction in the amount of employer contributions towards the scheme in respect of members or members of a particular description;
- (c) to make any increase in member contributions by or on behalf of members or members of a particular description.

Listed changes: exclusions

- 10.**—(1) For the purposes of regulations 8 and 9, no account is to be taken of any change which—
- (a) is made for the purposes of complying with a statutory provision,
 - [^{F7}(aa) is made for the purposes of implementing an adjustment measure within regulation 10 of the Occupational Pension Scheme (Charges and Governance) Regulations 2015,]
 - [^{F8}(ab) is made for either or both of the purposes referred to in regulation 7C(1) (modification of schemes: revaluation of guaranteed minimum pensions) of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006,]
 - [^{F9}(ac) 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,
 - (ad) which is made in respect of a collective money purchase scheme that is pursuing continuity option 1 in accordance with—
 - (i) Schedule 6 to the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022, or
 - (ii) scheme rules made in accordance with that Schedule,]
 - (b) is made for the purposes of complying with a determination made by the Regulator, or
 - (c) has no lasting effect on a person's rights to be admitted to a scheme or on the benefits that may be provided under it.
- (2) No change which is—
- (a) a regulated modification within the meaning of the subsisting rights provisions, and
 - (b) subject to the requirements of those provisions,
- falls within regulation 8.
- (3) “Statutory provision” means a provision comprised in—
- (a) an Act of Parliament or subordinate legislation made under such an Act, whenever passed or made,
 - (b) an Act of the Scottish Parliament or subordinate legislation made under such an Act, whenever passed or made.
- (4) “Subsisting rights provisions” has the meaning given by section 67 of the Pensions Act 1995 (the subsisting rights provisions).
- [^{F10}(5) In this regulation—
- “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;

Changes to legislation: There are currently no known outstanding effects for the The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006, Restriction on decision-making pending completion of consultation. (See end of Document for details)

“multi-annual reduction” has the meaning given by regulation 2 of the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022.]

Textual Amendments

- F7** Reg. 10(1)(aa) inserted (6.4.2015) by [The Occupational Pension Schemes \(Charges and Governance\) Regulations 2015 \(S.I. 2015/879\)](#), regs. 1(2), **13(1)**
- F8** Reg. 10(1)(ab) inserted (6.4.2016) by [The Occupational and Personal Pension Schemes \(Modification of Schemes - Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/231\)](#), regs. 1(2), **3**
- F9** Reg. 10(1)(ac)(ad) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) \(Modifications and Consequential and Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/337\)](#), regs. 1(3), **11(2)(a)**
- F10** Reg. 10(5) inserted (1.8.2022) by [The Occupational Pension Schemes \(Collective Money Purchase Schemes\) \(Modifications and Consequential and Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/337\)](#), regs. 1(3), **11(2)(b)**

Marginal Citations

- M2** 1995 c. 26. Section 67 is substituted by section 262 of the Pensions Act 2004.

Changes to legislation:

There are currently no known outstanding effects for the The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006, Restriction on decision-making pending completion of consultation.