
STATUTORY INSTRUMENTS

2010 No. 772

The Occupational and Personal Pension Schemes
(Automatic Enrolment) Regulations 2010

PART 12

Hybrid schemes

Interpretation

40. In this Part—

“the paragraph (a) quality requirements” means the requirements for a money purchase scheme under section 20 of the Act (referred to in relation to hybrid schemes in paragraph (a) of section 24(1) (quality requirements: UK hybrid schemes) of the Act);

“the paragraph (b) quality requirements” means the requirements for a defined benefits scheme under sections 21 to 23 of the Act (referred to in relation to hybrid schemes in paragraph (b) of section 24(1) of the Act);

“relevant rule” means any rule made under section 24(2) to (4) of the Act⁽¹⁾.

Modification of test scheme standard: money purchase benefit lump sum accruals

41.—(1) Paragraph (2) applies where a relevant rule—

- (a) specifies a description of hybrid schemes; and
- (b) provides that the paragraph (b) quality requirements are to apply to any scheme of that description subject to the modifications made by this regulation.

(2) In determining whether any such scheme satisfies the paragraph (b) quality requirements in relation to a jobholder, section 23 (test scheme) of the Act has effect as if for subsection (4) there were substituted—

“(4) The requirements of either subsection (4A) or (4B) must be satisfied in relation to the amount (“the amount”) available for the provision of a pension to a member at the appropriate age.

(4A) The requirements of this subsection are that the amount must accrue at an annual rate of at least 16% of qualifying earnings.

(4B) The requirements of this subsection are that the amount must—

- (a) accrue at an annual rate of at least 8% of qualifying earnings; and
- (b) until the date on which the member attains normal pension age (within the meaning of the Pension Schemes Act 1993), be increased as a minimum by 3.5% per annum, in addition to any increase that is required by virtue of regulation 37(2) (a) of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010.”.

(1) The rules are available at www.dwp.gov.uk.

(3) Where the modification described in paragraph (2) has effect in relation to a hybrid scheme of the relevant description, regulation 39 is to be read as if, after paragraph (4) there were inserted—

“(4A) Where, in relation to a scheme to which the modification described in regulation 41(2) applies, an employer is determining whether the scheme satisfies the test scheme standard—

- (a) the employer must choose between a test scheme which satisfies the requirements of section 23(4A) of the Act or those of section 23(4B) of the Act; and
- (b) having made that choice, that is the test scheme which the employer must apply in relation to all persons who are relevant members.”.

Modification of test scheme standard: final salary lump sum accruals

42.—(1) Paragraph (2) applies where a relevant rule—

- (a) specifies a description of hybrid schemes; and
- (b) provides that the paragraph (b) quality requirements are to apply to any scheme of that description subject to the modification made by this regulation.

(2) In determining whether any such scheme satisfies the paragraph (b) quality requirements in relation to a jobholder, section 23 of the Act has effect as if for subsection (4) there were substituted—

“(4) The amount available for the provision of a pension to a member must accrue at an annual rate of at least 16% of average qualifying earnings in the last three tax years preceding the end of pensionable service.”.

Modification allowing different quality requirements to be satisfied in aggregate

43.—(1) Paragraphs (2) to (5) apply where a relevant rule—

- (a) specifies a description of hybrid schemes; and
- (b) provides that—
 - (i) the provisions of any scheme of that description which relate to defined benefits and the provisions of the scheme relating to money purchase benefits are to be treated as if they provided for benefits under separate schemes;
 - (ii) in respect of the money purchase benefits provisions, the paragraph (a) quality requirements are to apply; and
 - (iii) in respect of the defined benefits provisions, the paragraph (b) quality requirements are to apply; and
 - (iv) those quality requirements are to apply to the scheme subject to the modifications made by this regulation.

(2) Notwithstanding that not all of the paragraph (a) quality requirements or the paragraph (b) quality requirements are satisfied in relation to the scheme, those requirements are nevertheless to be treated as having been satisfied in relation to any jobholder in the circumstances set out in paragraph (3).

(3) The circumstances are that—

- (a) all of the paragraph (a) quality requirements are met apart from either or both of the requirement in section 20(1)(b) of the Act (“requirement X”) and the requirement in section 20(1)(c) of the Act;
- (b) all of the paragraph (b) quality requirements are met apart from the requirement in section 23(4) of the Act (“requirement Y”); and

- (c) having carried out the calculations set out in paragraph (4)(a) and (b), the aggregate of the resulting percentages is at least 100.
- (4) Each of the following is to be calculated as a percentage—
 - (a) the extent to which requirement X is met as a proportion of the minimum rate of employer’s contribution specified in section 20(1)(b) of the Act;
 - (b) the extent to which requirement Y is met as a proportion of the annual rate of pension specified in section 23(4) of the Act.
- (5) In relation to a scheme to which any modification described in regulation 41 or 42 applies by virtue of a relevant rule, the reference in paragraph (3)(b) to the requirement in section 23(4) of the Act is to that requirement as modified by regulation 41 or 42, as the case may be.
- (6) Where paragraphs (2) to (5) have effect in relation to a hybrid scheme of the relevant description, regulation 39 is to be read as if, for paragraph (5), there were substituted—
 - “(5) A scheme actuary or employer may not certify that a scheme satisfies the test scheme standard if the aggregate percentage referred to in regulation 43(3)(c) is less than 100 in relation to more than 10% of relevant members.”.