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STATUTORY INSTRUMENTS

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**2010 No. 772**

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

**PART 12**

Hybrid schemes

**Modification allowing different quality requirements to be satisfied in aggregate**

**43.**—(1) [<sup>F1</sup>Paragraphs (2) to (4)] 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;
  - [<sup>F2</sup>(b) all of the paragraph (b) quality requirements are met apart from the relevant benefit requirement (“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;
  - [<sup>F3</sup>(b) the extent to which requirement Y is met as a proportion of—
    - (i) where the requirement in subsection (4) of section 23 of the Act applies, the annual rate of pension specified in that subsection; or

(ii) where a requirement in paragraph (4), (6) or (7) of regulation 39A applies, the sum of money to be made available for the provision of benefits as specified in the relevant paragraph.]

[<sup>F4</sup>(5) Where paragraphs (2) to (4) 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.”.]

[<sup>F4</sup>(6) In this regulation, “the relevant benefit requirement” means—

- (a) the requirements in subsection (4) of section 23 of the Act where that subsection applies; or
- (b) one of the requirements specified in regulation 39A where that regulation applies.]

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#### **Textual Amendments**

- F1** Words in reg. 43(1) substituted (1.7.2012) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/215\)](#), regs. 1(2)(c), **37(a)**
- F2** Reg. 43(3)(b) substituted (1.7.2012) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/215\)](#), regs. 1(2)(c), **37(b)**
- F3** Reg. 43(4)(b) substituted (1.7.2012) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/215\)](#), regs. 1(2)(c), **37(c)**
- F4** Reg. 43(5)(6) substituted (1.7.2012) by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/215\)](#), regs. 1(2)(c), **37(d)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010, Section 43.