

SCHEDULES

SCHEDULE 1

Section 31

PAUSE ORDERS

Consequences of a pause order

- 1 (1) If a pause order is made in relation to a Master Trust scheme, any action taken in contravention of the order is void, except to the extent that the action is validated by an order under paragraph 3.
- (2) A pause order in relation to a Master Trust scheme does not prevent the scheme being wound up in pursuance of an order under section 11 of the Pensions Act 1995 (power to wind up occupational pension schemes).
- (3) If a pause order contains a direction under section 31(5)(b) that no further contributions (or no further specified contributions) are to be paid towards a scheme during the period for which the order has effect—
 - (a) any contributions which are the subject of the direction and which would otherwise be due to be paid towards the scheme during that period are to be treated as if they do not fall due, and
 - (b) any obligation to pay those contributions (including any obligation under section 49(8) of the Pensions Act 1995 to pay amounts deducted corresponding to such contributions) is to be treated as if it does not arise.
- (4) If a pause order contains a direction under section 31(5)(e) (no transfers etc of members' rights) it does not prevent—
 - (a) a pension sharing order or provision having effect, or
 - (b) a pension earmarking order having effect in a case where—
 - (i) the order requires a payment to be made if a payment in respect of any benefits under the scheme becomes due to a person, and
 - (ii) a direction under section 31(5)(d) does not prevent the payment becoming due.
- (5) In sub-paragraph (4)—

“pension sharing order or provision” means an order or provision falling within section 28(1) of the Welfare Reform and Pensions Act 1999 (activation of pension sharing);

“pension earmarking order” means—

 - (a) an order under section 23 of the Matrimonial Causes Act 1973 (financial provision orders in connection with divorce etc) so far as it includes provision made by virtue of section 25B or 25C of that Act (powers to include provision about pensions),
 - (b) an order under Part 1 of Schedule 5 to the Civil Partnership Act 2004 (financial provision in connection with dissolution, nullity or separation) so far as it includes provision made by virtue of paragraphs

Status: This is the original version (as it was originally enacted).

- 25 and 26 of Part 6 of that Schedule (powers to include provision about pensions),
- (c) an order under section 12A(2) or (3) of the Family Law (Scotland) Act 1985 (powers in relation to pension lump sums when making a capital sum order),
 - (d) an order under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)) so far as it includes provision made by virtue of Article 27B or 27C of that Order (Northern Ireland powers corresponding to those mentioned in paragraph (a)), or
 - (e) an order under Part 1 of Schedule 15 to the Civil Partnership Act 2004 (financial provision in connection with dissolution, nullity or separation) so far as it includes provision made by virtue of paragraphs 20 and 21 of Part 5 of that Schedule (powers to include provision about pensions).
- (6) The Secretary of State may make regulations modifying any provision of—
- (a) Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 (transfer rights: general), or
 - (b) Chapter 2 of that Part (early leavers: cash transfer sums and contribution refunds),
- in their application to a Master Trust scheme in relation to which a pause order has effect containing a direction under section 31(5)(e) (no transfers etc of members' rights).
- (7) Regulations under sub-paragraph (6) override any provision of the Master Trust scheme, to the extent that there is a conflict.
- (8) Disregarding sub-paragraph (1), if a pause order made in relation to a scheme is not complied with, section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee of the Master Trust scheme who has failed to take all reasonable steps to secure compliance.
- (9) Sub-paragraph (8) does not apply in the case of non-compliance with a direction under section 31(5)(c) (direction that certain deducted contributions are to be repaid by employer).
- (10) In such a case, section 10 of the Pensions Act 1995 (civil penalties) applies to an employer who, without reasonable excuse, fails to repay an amount as required by the direction.
- (11) Regulations under this paragraph are subject to negative resolution procedure.

Period of effect etc of pause order

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- (1) A pause order must specify the period for which it has effect, which must not exceed three months.
 - (2) The Pensions Regulator may on one or more occasions by order extend the period for which the pause order has effect for a further three months.
 - (3) A pause order that is in effect at the end of the triggering event period ceases to have effect at the end of that period.

Validation of action in contravention of pause order

- 3 (1) If a pause order is made in relation to a Master Trust scheme, the Pensions Regulator may by order validate action taken in contravention of the order.
- (2) Any of the following persons may apply to the Regulator for an order under this paragraph validating particular action—
- (a) the trustees of the scheme;
 - (b) any person directly affected by the action.

Notification of trustees, scheme funders, scheme strategists, employers and members

- 4 (1) This paragraph applies where—
- (a) a pause order is made in relation to a Master Trust scheme, or
 - (b) an order is made under paragraph 3 validating action taken in contravention of a pause order made in relation to a scheme.
- (2) The Pensions Regulator must, as soon as reasonably practicable after the order has been made, notify the following persons of the fact that the order has been made and of its effect—
- (a) the trustees of the scheme;
 - (b) the scheme funders and scheme strategists.
- (3) The Pensions Regulator may by order direct the trustees of the scheme to notify the following persons of the fact that the order has been made and of its effect—
- (a) all of the members of the scheme or such members as are specified in the order;
 - (b) all employers by which the scheme is used, or such employers as are specified in the order.
- (4) The trustees must give a notification under sub-paragraph (3) within the period and in the manner specified in the order under that sub-paragraph.
- (5) If the trustees of a scheme fail to comply with a direction to them contained in an order made under sub-paragraph (3), section 10 of the Pensions Act 1995 (civil penalties) applies to any trustee who has failed to take all reasonable steps to secure compliance.

Supplementary provision

- 5 (1) A pause order, or an order made under any of paragraphs 2, 3 or 4, may be made in relation to a Master Trust scheme—
- (a) in spite of any enactment or rule of law, or any rule of the scheme, which would otherwise operate to prevent the order being made, and
 - (b) without regard to any such enactment, rule of law or rule of the scheme as would otherwise require, or might otherwise be taken to require, the implementation of any procedure or the obtaining of any consent, with a view to making the order.
- (2) Sub-paragraph (1) does not have effect to authorise the Pensions Regulator to make an order as mentioned in that sub-paragraph if its doing so would be unlawful as a result of section 6(1) of the Human Rights Act 1998 (unlawful for public authority to act in contravention of a Convention right).