

**EXPLANATORY MEMORANDUM TO**  
**THE OCCUPATIONAL PENSION SCHEMES (COLLECTIVE MONEY PURCHASE**  
**SCHEMES) (MODIFICATIONS AND CONSEQUENTIAL AND MISCELLANEOUS**  
**AMENDMENTS) REGULATIONS 2022**

**2022 No. 337**

**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 the instrument**

2.1 This instrument makes consequential and miscellaneous amendments, and modifications, to existing pensions legislation in relation to collective money purchase schemes.

**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 territorial extent of this instrument is Great Britain.

4.2 The territorial application of this instrument is Great Britain.

4.3 It is envisaged that Northern Ireland will make corresponding regulations.

**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 Part 1 of the Pension Schemes Act 2021<sup>1</sup> provided the legislative framework to introduce collective money purchase pension schemes to Great Britain. Collective money purchase benefits are a sub-set of money purchase benefits.

6.2 The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022<sup>2</sup> were laid before Parliament on 17th January 2022. They provide the detailed legislative framework within which single or connected employer collective money purchase schemes can seek authorisation to operate. They also set out the detail of how the Pensions Regulator's supervisory framework will apply and what the trustees of these schemes will need to do if something goes wrong with the scheme including when a scheme might need to be wound up. In addition, they make some changes to existing pensions secondary legislation, including in relation to charges.

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<sup>1</sup> [www.legislation.gov.uk/ukpga/2021/1/contents/enacted](http://www.legislation.gov.uk/ukpga/2021/1/contents/enacted)

<sup>2</sup> [www.legislation.gov.uk/ukdsi/2022/9780348230505/introduction](http://www.legislation.gov.uk/ukdsi/2022/9780348230505/introduction)

- 6.3 This instrument supports those regulations by making further changes to existing pensions legislation to ensure that collective money purchase schemes operate as intended, that the interests of member are protected and that pertinent scheme communications are provided to members of these schemes and others.

## 7. Policy background

### *What is being done and why?*

- 7.1 Traditionally, the pensions market in the United Kingdom has been binary in nature. Broadly, the only options available to employers and employees were either defined benefit schemes where the employer underwrote the pension benefits paid to employees, or defined contribution schemes where individual members bore all the investment and longevity risks and there were no employer guarantees regarding what the member might receive at retirement.
- 7.2 Collective money purchase schemes provide an alternative in which the contributions of members and employers are pooled and invested with a view to delivering an aspired to benefit level. This offers potential benefits of scale and the opportunity for greater investment in higher returning assets than are usually associated with occupational pension schemes. Another benefit is that the collective nature of these schemes means investment and longevity risks are shared across the membership. As these schemes provide an income to pensioner members there is no need for members to make complex financial decisions at the point of retirement.
- 7.3 The government committed to introduce this new type of pension provision because it is more sustainable for employers and employees alike and has the potential to offer better outcomes for savers. There is also cross-party support for this new type of pension provision and considerable industry interest in seeing it extended beyond the single or connected employer collective money purchase scheme that this instrument will help facilitate.
- 7.4 This instrument makes amendments to the disclosure and publication requirements in the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013<sup>3</sup>. This is to ensure greater transparency and understanding about the nature of this new type of pension provision and the operation of collective money purchase schemes. For example, it will be vital that members understand that the level of pension benefits in a collective money purchase scheme may be adjusted up or down on an annual basis. This is because unlike defined benefit schemes there is no guarantee concerning the amount of pension income a member of a collective money purchase scheme will receive in retirement. This instrument introduces requirements for members to be informed of this. This instrument also provides for an effective framework for disclosing other important information about the operation of these schemes to prospective members and members, including those who are about to or who are already pensioner members.
- 7.5 This instrument also makes amendments to exempt collective money purchase schemes from certain existing legislative provisions that are inappropriate to this new type of scheme. For example, the instrument amends the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 so that collective money purchase schemes are exempt from employer debt requirements in section 75

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<sup>3</sup> [www.legislation.gov.uk/ukxi/2013/2734/contents](http://www.legislation.gov.uk/ukxi/2013/2734/contents)

of the Pensions Act 1995<sup>4</sup>. This is because there are no employer liabilities involved with these schemes in the way there are for defined benefit schemes.

- 7.6 Amendments to the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991<sup>5</sup> are being made to ensure that bulk transfers without member consent from a defined benefit scheme to a collective money purchase scheme will not be permitted as this may be to the detriment of members. However, this instrument makes amendments to ensure that bulk transfers without member consent out of a collective money purchase scheme that is being wound up under Continuity Option 1<sup>6</sup> are permitted.
- 7.7 This instrument makes other provisions relating to the winding-up of a collective money purchase scheme. An amendment to the Occupational Pension Schemes (Transfer Values) Regulations 1996<sup>7</sup> (“Transfer Values Regulations”) will prevent a member from seeking to transfer out of a collective money purchase scheme that is being wound up. This aligns with the approach taken in this regard to other occupational pension schemes in wind up. This instrument also ensures that the winding up provisions in section 73 of the Pensions Act 1995<sup>8</sup> do not apply to collective money purchase schemes or sections of schemes that are collective money purchase schemes for the purposes of Part 1 of the Pension Schemes Act 2021. This instrument also makes provision for the payments of periodic income paid to pensioner beneficiaries during the winding up of a collective money purchase scheme to be offset against the value of those members’ accrued rights which are to be discharged at the end of the winding up period.
- 7.8 Further amendments to the Transfer Values Regulations relate to a member’s right to transfer out of collective money purchase scheme. They include providing that the calculation of the member’s share of the collective assets, which are due to be transferred out of the scheme, must be calculated in accordance with scheme rules and legislation and with the input of an actuary. A key benefit of these schemes is that pensioner members will receive an income in retirement.
- 7.9 An additional amendment to the Transfer Values Regulations provides that, when the initial cash equivalent transfer value is given to a member, they must also be informed that a cooling-off period, provided for under section 25 of the Pension Schemes Act 2021<sup>9</sup>, applies. The member will be told that during this period no action will be taken to facilitate their transfer request and an explanation will be provided of the implications of leaving the scheme before normal pension age when the full benefits of these schemes are realised. The member will also be signposted to the guidance offered by the Money and Pensions Service<sup>10</sup>. The cooling-off period provides the member with time to consider whether transferring out of the scheme is in their best interests. If they wish to pursue the transfer immediately, they can confirm this in writing to the trustees who will then continue to facilitate the transfer request.

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<sup>4</sup> [www.legislation.gov.uk/ukpga/1995/26/contents](http://www.legislation.gov.uk/ukpga/1995/26/contents)

<sup>5</sup> [www.legislation.gov.uk/uksi/1991/167/made](http://www.legislation.gov.uk/uksi/1991/167/made)

<sup>6</sup> [www.legislation.gov.uk/ukpga/2021/1/section/36](http://www.legislation.gov.uk/ukpga/2021/1/section/36)

<sup>7</sup> [www.legislation.gov.uk/uksi/1996/1847](http://www.legislation.gov.uk/uksi/1996/1847)

<sup>8</sup> [www.legislation.gov.uk/ukpga/1995/26/enacted](http://www.legislation.gov.uk/ukpga/1995/26/enacted)

<sup>9</sup> [www.legislation.gov.uk/ukpga/2021/1/contents/enacted](http://www.legislation.gov.uk/ukpga/2021/1/contents/enacted)

<sup>10</sup> [www.moneyandpensionsservice.org.uk](http://www.moneyandpensionsservice.org.uk)

- 7.10 The instrument provides, in an amendment to the Stakeholder Pension Schemes Regulations 2000<sup>11</sup>, that a collective money purchase scheme cannot be a stakeholder pensions scheme.
- 7.11 The instrument modifies the anti-avoidance provisions in sections 43, 52 and 58A-D of the Pensions Act 2004<sup>12</sup>, so that sections of schemes that provide collective money purchase benefits are exempt. This is because those anti-avoidance provisions are relevant to defined benefit schemes but not to money purchase schemes, of which collective money purchase schemes are a subset.
- 7.12 The Occupational Pension Schemes (Scheme Funding) Regulations 2005<sup>13</sup> are also being amended to exempt collective money purchase schemes and scheme sections providing collective money purchase benefits from the scheme funding requirements in Part 3 of the Pensions Act 2004. This is because those requirements only relate to defined benefit schemes.
- 7.13 Amendments are also being made to the Occupational Pension Schemes (Modification of Schemes) Regulations 2006<sup>14</sup>, so that the subsisting rights provisions in sections 67 and 67A-I of the Pensions Act 1995<sup>15</sup> do not apply to any adjustment of benefits that may need to be made to benefits payable under the collective money purchase scheme. This underlines that adjustments of benefits are an integral feature of collective money purchase schemes and that there is no guarantee attached to what a pensioner might receive in retirement as is the case with defined benefit schemes. These changes help ensure that collective money purchase schemes are not inadvertently caught by these requirements.

## **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 2018 (c. 16).

## **9. Consolidation**

- 9.1 Informal consolidated text of instruments is available to the public free of charge via ‘the National Archive’ website<sup>16</sup>.

## **10. Consultation outcome**

- 10.1 In November 2018, the government launched a consultation on “Delivering Collective Defined Contribution Pension Schemes<sup>17</sup>”, which set out its proposals for the establishment of these schemes (now referred to in the legislation as collective money purchase schemes). In its response to the consultation, which was published in March 2019<sup>18</sup>, the government confirmed that the vast majority of respondents supported its proposals. It also confirmed its intention to proceed with legislating for this new type of pension provision.

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<sup>11</sup> [www.legislation.gov.uk/uksi/2000/1403/contents/made](http://www.legislation.gov.uk/uksi/2000/1403/contents/made)

<sup>12</sup> [www.legislation.gov.uk/ukpga/2004/35/contents/enacted](http://www.legislation.gov.uk/ukpga/2004/35/contents/enacted)

<sup>13</sup> [www.legislation.gov.uk/uksi/2005/3377/contents/made](http://www.legislation.gov.uk/uksi/2005/3377/contents/made)

<sup>14</sup> [www.legislation.gov.uk/uksi/2006/759/made](http://www.legislation.gov.uk/uksi/2006/759/made)

<sup>15</sup> [www.legislation.gov.uk/ukpga/1995/26/contents/enacted](http://www.legislation.gov.uk/ukpga/1995/26/contents/enacted)

<sup>16</sup> [www.legislation.gov.uk](http://www.legislation.gov.uk)

<sup>17</sup> [www.gov.uk/government/consultations/delivering-collective-defined-contribution-pension-schemes/delivering-collective-defined-contribution-pension-schemes](http://www.gov.uk/government/consultations/delivering-collective-defined-contribution-pension-schemes/delivering-collective-defined-contribution-pension-schemes)

<sup>18</sup> [www.gov.uk/government/consultations/delivering-collective-defined-contribution-pension-schemes](http://www.gov.uk/government/consultations/delivering-collective-defined-contribution-pension-schemes)

- 10.2 The Pension Schemes Act 2021 received Royal Assent on 11 February 2021. This contained the primary legislative framework that was necessary for single or connected employer collective money purchase schemes to be able to operate in the United Kingdom pensions market. In a further consultation, which ran from 19 July to 31 August 2021, “The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2021<sup>19</sup>”, the government published a draft of and sought views on the detailed secondary legislation needed to implement these schemes in Great Britain.
- 10.3 The government published its response to the consultation on 15 December 2021<sup>20</sup>. 33 written responses were received, from a range of interested parties including pension industry representatives, trade unions, legal firms, advisers and actuaries. Respondents were broadly supportive of the approach we have taken with the majority of respondents raising drafting and minor technical points and requests for clarification. In addition, direct engagement was undertaken with a number of industry stakeholders including actuarial and legal firms. The Pensions Regulator also provided input throughout the development of the draft secondary legislation. Having considered the points raised, drafting changes were made to the instrument to provide greater clarity and more accurately reflect the policy intent. There were no changes in policy intent as a result of the responses received.

## **11. Guidance**

- 11.1 The Pensions Regulator has developed a Code of Practice, as required by section 90(2)(jc) and (jd) of the Pensions Act 2004<sup>21</sup>, to support this instrument and the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022<sup>22</sup> for those interested in applying for authorisation to operate a collective money purchase scheme. The Pensions Regulator began its consultation on the draft Code of Practice in January 2022<sup>23</sup> and it will be brought into force in accordance with section 91 of the Pensions Act 2004, which includes a requirement for a draft to be laid in Parliament.
- 11.2 Amendments in relation to collective money purchase schemes are also being made to the Department for Work and Pensions guidance on the reporting of costs, charges and other information: guidance for trustees and managers of occupational schemes.

## **12. Impact**

- 12.1 The impact on business, charities or voluntary bodies is minimal.
- 12.2 The main impact will be on persons seeking to establish and operate a collective money purchase scheme, persons who choose to apply to the Pensions Regulator for authorisation of such a scheme and persons who operate a collective money purchase scheme.

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<sup>19</sup> [www.gov.uk/government/consultations/the-occupational-pension-schemes-collective-money-purchase-schemes-regulations-2021](http://www.gov.uk/government/consultations/the-occupational-pension-schemes-collective-money-purchase-schemes-regulations-2021)

<sup>20</sup> [www.gov.uk/government/consultations/the-occupational-pension-schemes-collective-money-purchase-schemes-regulations-2021](http://www.gov.uk/government/consultations/the-occupational-pension-schemes-collective-money-purchase-schemes-regulations-2021)

<sup>21</sup> [www.legislation.gov.uk/ukpga/2004/35/contents](http://www.legislation.gov.uk/ukpga/2004/35/contents)

<sup>22</sup> [www.legislation.gov.uk/ukdsi/2022/9780348230505/introduction](http://www.legislation.gov.uk/ukdsi/2022/9780348230505/introduction)

<sup>23</sup> [www.thepensionsregulator.gov.uk/en/document-library/consultations/collective-defined-contribution-code-consultation](http://www.thepensionsregulator.gov.uk/en/document-library/consultations/collective-defined-contribution-code-consultation)

- 12.3 The Equivalent Annual Net Direct Cost to Businesses of the package of measures contained in this instrument is £0.4m.
- 12.4 Costs principally stem from familiarisation with the relevant regulations and guidance, the development of the proposed design of the scheme, one-off costs associated with meeting the criteria to be authorised, ongoing scheme running costs and ongoing costs associated with complying with the Pensions Regulator’s supervisory return and other periodic reporting requirements.
- 12.5 There is no, or no significant, impact on the public sector.
- 12.6 The costs are included in a full Impact Assessment that has been published on the legislation.gov.uk website<sup>24</sup>.

### **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

### **14. Monitoring & review**

- 14.1 The Department for Work and Pensions will be informally monitoring these regulations to make sure that they operate as intended. This will involve engagement with the Pensions Regulator and any collective money purchase scheme that is established.

- 14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Guy Opperman MP, Parliamentary Under-Secretary of State for the Department for Work and Pensions, has made the following statement:

“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 (Collective Money Purchase Schemes)(Consequential and Miscellaneous Amendments) Regulations 2022”.

### **15. Contact**

- 15.1 Julian Barker at the Department of Work and Pensions, Telephone: 07941893143 or email: julian.barker@dwp.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Joanne Gibson, Deputy Director for Automatic Enrolment and Defined Contribution Pensions Policy, at the Department for Work and Pensions can confirm this Explanatory Memorandum meets the required standard.
- 15.3 Minister for Pensions and Financial Inclusion (Parliamentary Under-Secretary of State), Guy Opperman MP at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

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<sup>24</sup> [www.legislation.gov.uk/ukia/2022/10/pdfs/ukia\\_20220010\\_en.pdf](http://www.legislation.gov.uk/ukia/2022/10/pdfs/ukia_20220010_en.pdf)