

THE PENSIONS ACT 2008

The Hybrid Schemes Quality Requirements Rules 2010

The Secretary of State for Work and Pensions in exercise of the powers conferred by section 24(2), (3) and (4) of the Pensions Act 2008^(a) makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Hybrid Schemes Quality Requirements Rules 2010 and come into force on [DATE].

(2) In these Rules—

“the Act” means the Pensions Act 2008;

“the 2010 Regulations” means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010^(b);

“contracted-out employment” has the same meaning as in section 21(4) of the Act;

“contracted-out scheme” has the same meaning as in section 181(1) of the Pension Schemes Act 1993^(c);

“normal pension age” has the same meaning as in section 181(1) of the Pension Schemes Act 1993;

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

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

“prescribed modifications”, in relation to the paragraph (a) or the paragraph (b) quality requirements, means modifications prescribed by the 2010 Regulations;

“relevant scheme” has the meaning given by rule 2(2).

Application: general

2.—(1) These Rules apply to any hybrid scheme which falls within any of the descriptions specified in rules 3 to 10.

(2) Any scheme of a description specified in a particular rule is referred to in that rule as “a relevant scheme”.

(3) In relation to each description of relevant schemes, rules 3 to 10 set out—

(a) how section 24(1) of the Act is to be applied in order to determine whether a particular scheme satisfies the quality requirements in relation to a jobholder; and

(a) 2008 c.30.

(b) S.I. 2010/[INSERT NUMBER].

(c) 1993 c.48. See the definition of “contracting out certificate”.

- (b) whether any such requirements are subject to prescribed modifications in their application to such a scheme.

Contracted-out hybrid schemes

3.—(1) The hybrid schemes specified by this rule are hybrid schemes which are contracted-out schemes.

(2) In the application of section 24(1) of the Act to a relevant scheme—

- (a) in relation to any jobholder who is in contracted-out employment, apply the paragraph (b) quality requirements (with the result that section 21(1) of the Act will apply); and
- (b) in relation to any jobholder who is not in contracted-out employment, the question as to which are the appropriate requirements for the scheme is to be determined in accordance with rules 4 to 10.

General rule for hybrid schemes

4.—(1) The hybrid schemes specified by this rule—

- (a) are schemes under which the benefits to be paid to or in respect of members include both defined benefits and money purchase benefits; but
- (b) do not include—
 - (i) in relation to jobholders who are in contracted-out employment, any contracted-out scheme; or
 - (ii) any scheme falling within a description specified in any of rules 5 to 10.

(2) In the application of section 24(1) of the Act to a relevant scheme, treat the provisions of the scheme relating to defined benefits and the provisions of the scheme relating to money purchase benefits as if they provided for benefits under separate schemes and—

- (a) in respect of the money purchase benefits provisions, apply the paragraph (a) quality requirements without any prescribed modifications;
- (b) in respect of the defined benefits provisions, apply the paragraph (b) quality requirements without any prescribed modifications.

(3) For the purposes of paragraph (2), if either the paragraph (a) or the paragraph (b) quality requirements are satisfied, it is irrelevant whether the other paragraph's requirements are satisfied.

Sequential hybrid schemes

5.—(1) The hybrid schemes specified by this rule are schemes under which the benefits that will be paid to or in respect of members include both defined benefits and money purchase benefits, where a member of the scheme—

- (a) may not at the same time accrue both defined benefits and money purchase benefits; but
- (b) may, in accordance with scheme rules, cease accruing one description of benefits and start accruing the other.

(2) In the application of section 24(1) of the Act to a relevant scheme—

- (a) apply the general rule set out in rule 4(2); but
- (b) for the purposes of this rule, the paragraph (a) quality requirements and the paragraph (b) quality requirements must each be satisfied in relation to the provisions of the scheme to which they are applied.

Self-annuitising hybrid schemes

6.—(1) The hybrid schemes specified by this rule are schemes under which—

- (a) the rate or amount of pensions or other benefits to be paid to or in respect of members of the scheme on or after their retirement at the normal pension age will be calculated

wholly by reference to a payment or payments made by the member or by another person in respect of the member (or transfers or other credits); and

- (b) a number of the pensions or other benefits provided to members of the scheme on or after their retirement at the normal pension age will be paid from the scheme's resources.

(2) In the application of section 24(1) of the Act to a relevant scheme, apply the paragraph (a) quality requirements without any prescribed modifications.

Cash balance hybrid schemes

7.—(1) The hybrid schemes specified by this rule are schemes under which—

- (a) the rate or amount of pensions or other benefits to be paid to or in respect of members of the scheme on or after their retirement at the normal pension age will be determined by reference to a lump sum calculated otherwise than wholly by reference to a payment or payments made by the member or by another person in respect of the member (or transfers or other credits); and
- (b) the lump sum will be available for the provision of a pension or annuity.

(2) In the application of section 24(1) of the Act to a relevant scheme, apply the paragraph (b) quality requirements subject to the modifications prescribed by regulation 41 of the 2010 Regulations (which modifies the test scheme standard in relation to money purchase benefit lump sum accruals).

Final salary lump sum hybrid schemes

8.—(1) The hybrid schemes specified by this rule are schemes under which—

- (a) the rate or amount of pensions or other benefits to be paid to or in respect of members of the scheme on or after their retirement at the normal pension age will be determined by reference to a lump sum which is calculated by reference to their salary in the period immediately before ceasing to be an active member (or transfers or other credits); and
- (b) the lump sum will be available for the provision of a pension or annuity.

(2) In the application of section 24(1) of the Act to a relevant scheme, apply the paragraph (b) quality requirements subject to the modification prescribed by regulation 42 of the 2010 Regulations (which modifies the test scheme standard in relation to final salary lump sum accruals).

Combination hybrid schemes

9.—(1) The hybrid schemes specified by this rule are schemes under which members accrue both defined benefits and money purchase benefits in respect of the same period of service.

(2) In the application of section 24(1) of the Act to a relevant scheme, treat the provisions of the scheme relating to defined benefits and the provisions of the scheme relating to money purchase benefits as if they provided for benefits under separate schemes and determine which requirements are to apply to the scheme in accordance with paragraphs (3) and (4).

(3) The first step is to apply the general rule set out in rule 4(2) and, if either the paragraph (a) or the paragraph (b) quality requirements are satisfied—

- (a) it is irrelevant whether the other paragraph's requirements are satisfied; and
- (b) there is no need to take the second step,

and, for these purposes, the reference to the paragraph (a) or the paragraph (b) quality requirements, in relation to any scheme of a description falling within rule 7 or 8, is to those requirements as modified by regulation 41 or 42 of the 2010 Regulations (as the case may be).

(4) The second step is to determine whether the paragraph (a) and the paragraph (b) quality requirements may nevertheless be regarded as being satisfied in accordance with the modifications prescribed by regulation 43 of the 2010 Regulations (which sets out circumstances in which different quality requirements can be satisfied in aggregate).

Schemes where more than one rule applies

- 10.**—(1) The hybrid schemes specified by this rule are schemes under which—
- (a) the benefits to be paid to or in respect of members of the scheme on or after their retirement are such that, if the scheme provided only those benefits, it would fall within any description of schemes specified in rules 3 to 9; and
 - (b) other such benefits of any description which are such that, if the scheme provided only benefits of that description, it would fall within any other description of schemes specified in rules 3 to 9.
- (2) In the application of section 24(1) of the Act to a relevant scheme—
- (a) treat the provisions of the scheme which provide for the different descriptions of benefits within paragraph (1)(a) or (b) as if they provided for benefits under separate schemes; and
 - (b) in respect of each such separate scheme, apply the quality requirements which, in accordance with rules 3 to 9, would apply to the scheme.