EXPLANATORY MEMORANDUM TO

THE PENSIONS ACT 2004 (CODES OF PRACTICE) (REVOCATION) ORDER 2024

2024 No. 273

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 His Majesty.

2. Declaration

2.1 Paul Maynard, Minister for Pensions at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

2.2 Sam Hainsworth, Deputy Director for Defined Benefit Pensions Policy, at the Department for Work and Pensions confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Peter Jones at the Department for Work and Pensions, Telephone: 0300 079 5602 or email: peter.jones8@dwp.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Pensions Act 2004 (Codes of Practice) (Revocation) order 2024 revokes ten of The Pensions Regulator's[1] (The Regulator) existing codes of practice (the old codes). It also revoked three earlier versions of codes 5, 6, and 7 which were not revoked when new versions were issued.

4.2 The ten codes which are being revoked are being replaced by a new code of practise ("the new code") [2] which provides more accessible guidance for pension schemes and incorporates changes introduced by the Occupational pension schemes (Governance) (Amendment) Regulations 2018[3]. This new code was laid on 10th January 2024.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales and Scotland.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Scotland and Wales.

[1] https://www.thepensionsregulator.gov.uk/en/about-us/what-tpr-does-and-who-we-are
[2] https://www.gov.uk/government/publications/the-pensions-regulator-general-code-of-practice
[3] https://www.legislation.gov.uk/uksi/2018/1103/contents/made

5. Policy Context

What is being done and why?

5.1 This instrument revokes the ten old codes (and three earlier issues) as they are being replaced by a new code.

What was the previous policy, how is this different?

5.2 The new code consolidates ten existing codes of practice. This new code provides more accessible guidance on the governance and administration of pension schemes.

5.3 Codes of practice provide practical guidelines in relation to the exercise of functions under pensions legislation and set out the standards of conduct and practise expected of those who exercise such functions. Since 2005 the Regulator has published sixteen codes of practice.

5.4 An assessment of certain existing codes of practice issued by the Regulator was carried out to take account of recent legislative changes introduced by the Occupational Pension Schemes (Governance) (Amendment) Regulations 2018 ("the regulations").[4] That assessment identified issues related to outdated content, duplication, poor user experience and a lack of user awareness.[5]

5.5 The new Code combines ten codes of practice issued by the Regulator, which has been restructured and updated to give practical guidance on matters relating to the governance of all types of schemes. The new Code will better meet the needs of trustees and scheme managers and their advisers and support modern scheme governance.

5.6 Statutory codes of practice are guidance rather than law but are laid before parliament. They are being updated and consolidated into a new Code.

5.7 The consolidation of the old codes into one new code makes it easier for those responsible for scheme governance and administration to understand what is expected of them.

5.8 Article 2 of this instrument revokes the old codes and three earlier issues as they are being replaced by the new code. The new code takes account of feedback from the industry on the content of the code and advances in best practice since the old codes were issued, and explains the recent legislative requirements set out in the Regulations. It is also presented in a new topic focused way, designed to be read as modules on the internet rather than as a single document.

6. Legislative and Legal Context

How has the law changed?

6.1 This order revokes the codes listed in Article 2 of the order.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

[4] https://www.legislation.gov.uk/uksi/2018/1103/contents/made
[5] https://www.thepensionsregulator.gov.uk/en/document-library/consultations/new-code-of-practice/interim-response-to-consultation-on-tprs-new-code

7. Consultation

Summary of consultation outcome and methodology

7.1 The Regulator consulted on the new Code between 17th of March 2021 and 26th of May 2021[6]. The consultation was principally aimed at anyone to whom the legislation applies or is directly relevant. This included trustees, scheme managers and professional advisors such as actuaries and service providers. The Regulator received 103 responses to its consultation. The Regulator published an interim response to the consultation on 24th of August 2021[7] and published final response the day the new code was laid[8].

7.2 As a result of this consultation, the Regulator made changes to several sections of the new Code. Some changes were made to make it clearer which schemes each module applies to. In addition, certain sections of the new Code have been redesigned and some content has been re-introduced from existing codes of practice. Most changes, however, have been minor and designed to respond to matters of interpretation or consistency.

7.3 There has been no consultation on this Revocation Order.

8. Applicable Guidance

8.1 There will be no guidance provided for the Revocation Order as this is not applicable.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it does not create any new legal obligations.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities, or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because it is a Revocation Order.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There is no requirement to carry out a statutory review. However, the Regulator regularly reviews its guidance and codes of practice to ensure they meet stakeholders' needs, to assist the Regulator in meeting its statutory objectives.

10.2 This instrument will not be reviewed.

[6] https://www.thepensionregulator.gov.uk/en/dovcument-library/consultations/new-code-of-practice
[7] https://www.thepensionsregulator.gov.uk/en/document-library/consultations/new-code-of-practice/interim-response-to-consultation-on-tprs-new-code
[8] https://www.thepensionsregulator.gov.uk/en/document-library/consultations/new-code-of-practice/final-response-to-the-consultation-on-a-new-code-of-practice

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023.