



2000 CHAPTER 4

PART II

PENSIONS

CHAPTER II

OCCUPATIONAL AND PERSONAL PENSION SCHEMES

Winding-up of schemes

Reports about winding-up

45.—(1) After Article 72 of the Pensions Order there shall be inserted—

“Supervision of winding-up

Reports to Authority about winding-up

72A.—(1) Where—

- (a) an occupational pension scheme is being wound up, and
- (b) the winding-up is one beginning at a time (whether before or after the making of this Order) by reference to which regulations provide that it is to be a winding-up to which this Article applies,

it shall be the duty of the trustees or managers, in accordance with this Article, to make periodic reports in writing to the Authority about the progress of the winding-up.

(2) In the case of each winding-up, the first report to be made under this Article shall be made—

- (a) except in a case to which sub-paragraph (b) applies—
 - (i) after the end of the prescribed period beginning with the day on which the winding-up began, and
 - (ii) before the end of the prescribed period that begins with the end of the period that applies for the purposes of head (i), and
- (b) in a case where the winding-up began before the coming into operation of the regulations which (for the purposes of paragraph (1)(b)) prescribe the time by reference to which the winding-up is one to which this Article applies, before such date as may be prescribed by those regulations.

(3) Subject to paragraph (4), each subsequent report made under this Article in the case of a winding-up shall be made no more than twelve months after the date which (apart from any postponement under paragraph (4)) was the latest date for the making of the previous report required to be made in the case of that winding-up.

(4) If, in the case of any report required to be made under paragraph (3), the Authority consider (whether on an application made for the purpose or otherwise) that it would be appropriate to do so, they may, at any time before the latest time for the making of that report, postpone that latest time by such period as they think fit.

(5) The latest time for making a report shall not be postponed under paragraph (4) by more than twelve months.

(6) Subject to the application of the limit specified in paragraph (5) to the cumulative period of the postponements, more than one postponement may be made under paragraph (4) in the case of the same report.

- (7) A report under this Article—
 - (a) shall contain such information and statements as may be prescribed, and
 - (b) shall be made in accordance with the prescribed requirements.

- (8) Regulations may—
 - (a) provide that, in prescribed circumstances, there shall be no obligation to make a report that would otherwise fall to be made under this Article,
 - (b) make provision for the period within which, and the manner in which, applications may be made for a postponement under paragraph (4), and
 - (c) modify paragraphs (3) and (5) by substituting periods of different lengths for the periods for the time being specified in those paragraphs.

(9) If there is any failure by the trustees or managers of any scheme to comply with their duty to make a report in accordance with the requirements imposed by or under this Article—

- (a) Article 3 applies, if the scheme is a trust scheme, to any trustee who has failed to take all such steps as are reasonable to secure compliance, and
- (b) Article 10 applies (irrespective of the description of scheme involved) to any trustee or manager who has failed to take all such steps.”.

(2) In Article 121 of that Order (interpretation of Part II), after paragraph (3) there shall be added—

“(4) In a case of the winding-up of an occupational pension scheme in pursuance of an order of the Authority under Article 11 or of an order of a court, the winding-up shall (subject to paragraph (8)) be taken for the purposes of this Part to begin—

- (a) if the order provides for a time to be the time when the winding-up begins, at that time, and
- (b) in any other case, at the time when the order comes into force.

(5) In a case of the winding-up of an occupational pension scheme in accordance with a requirement or power contained in the rules of the scheme, the winding-up shall (subject to paragraphs (6) to (8)) be taken for the purposes of this Part to begin—

- (a) at the time (if any) which under those rules is the time when the winding-up begins, and
- (b) if sub-paragraph (a) does not apply, at the earliest time which is a time fixed by the trustees or managers as the time from which steps for the purposes of the winding-up are to be taken.

(6) Paragraph (5) shall not require a winding-up of a scheme to be treated as having begun at any time before the end of any period during which effect is being given—

- (a) to a determination under Article 38 that the scheme is not for the time being to be wound up, or
- (b) to a determination in accordance with the rules of the scheme to postpone the commencement of a winding-up.

(7) In paragraph (5)(b) the reference to the trustees or managers of the scheme shall have effect in relation to any scheme the rules of which provide for a determination that the scheme is to be wound up to be made by persons other than the trustees or managers as including a reference to those other persons.

(8) Paragraphs (4) to (7) do not apply for such purposes as may be prescribed.”.

(3) After Article 49 of that Order there shall be inserted—

“Record of winding-up decisions

49A.—(1) Except in so far as regulations otherwise provide, the trustees or managers of an occupational pension scheme shall keep written records of—

- (a) any determination for the winding-up of the scheme in accordance with its rules,
- (b) decisions as to the time from which steps for the purposes of the winding-up of the scheme are to be taken,
- (c) determinations under Article 38,
- (d) determinations in accordance with the rules of the scheme to postpone the commencement of a winding-up of the scheme.

(2) For the purpose of this Article—

- (a) the determinations and decisions of which written records must be kept under this Article include determinations and decisions by persons who—
 - (i) are not trustees or managers of a scheme, but
 - (ii) are entitled, in accordance with the rules of a scheme, to make a determination for its winding-up, and
- (b) regulations may, in relation to such determinations or decisions as are mentioned in sub-paragraph (a), impose obligations to keep written records on the persons making the determinations or decisions (as well as, or instead of, on the trustees or managers).

(3) Regulations may provide for the form and content of any records that are required to be kept under this Article.

(4) Article 3 applies to any trustee of a scheme who fails to take all such steps as are reasonable to secure compliance by the trustees of that scheme with the obligations imposed on them by this Article.

(5) Article 10 applies to any trustee or manager of a scheme who fails to take all such steps as are reasonable to secure compliance by the trustees or managers of that scheme with those obligations.”.