

SCHEDULE 4

Methods of securing shortfall in cases of serious underprovision

Designated deposit accounts

3.—(1) The employer may secure the whole or part of the Article 60 shortfall by arranging, with the agreement of the trustees or managers of the scheme, for the payment of a sum into a deposit account with a relevant institution on the terms mentioned in sub-paragraphs (2) to (6).

(2) The account shall be held in the name of the trustees or managers and designated as an account to which the provisions of this paragraph apply.

(3) The trustees or managers shall hold the amount for the time being standing to the credit of the account on trust—

(a) if during the shortfall period a relevant insolvency event occurs in relation to the employer or the scheme begins to be wound up, to pay to the scheme a sum equal to—

(i) the sum standing to the credit of the account at that time, or

(ii) the Article 75(1) shortfall,

whichever is less, and

(b) subject to head (a), for the benefit of the employer absolutely.

(4) Where a sum has been paid into a deposit account with a relevant institution under sub-paragraph (1) to secure any amount following a serious shortfall valuation—

(a) the trustees or managers may agree to the sum standing to the credit of the account being transferred to another account with the same or another relevant institution on the terms mentioned in sub-paragraphs (2) and (3) to secure that amount, notwithstanding that the period within which that amount may be secured in that manner has expired, and

(b) if—

(i) a fresh obligation arises under Article 60(2) as a result of a further serious shortfall valuation, and

(ii) the trustees or managers agree that the account shall continue as a method of securing the amount required to be secured in pursuance of the further valuation on the terms mentioned in sub-paragraph (3),

then, for the purposes of Articles 56 to 61 and these Regulations (but not for any other purposes), such a payment as is mentioned in sub-paragraph (1) shall be deemed to have been made on the date of that agreement.

(5) An account held for the purposes of this paragraph may be held on terms allowing repayment to the employer of any amount by which the amount standing to the credit of the account at any time exceeds the Article 60 shortfall at that time.

(6) Except as provided in sub-paragraph (4), the terms of the trust on which the account is held shall not be capable of amendment during the shortfall period.